

CHAPTER 303

PRISON LABOR

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Cross-reference: See definitions in s. 301.01.

303.01 Prison industries. (1) CREATION (a) In this subsection "manufacturing" includes reprocessing, repairing, salvaging, servicing and storing.

(b) The department, with the approval of the prison industries board and after a hearing is held under par. (c), may establish industries for the employment of inmates in the state prisons. Except as provided in par. (d), prison industries may engage in manufacturing articles for and providing services to the state and its political subdivisions and any tax-supported institution or non-profit agency and for sale of such articles and services to other states or political divisions thereof or to the United States. The department shall fix the price of all products and services as near the market price as possible. Supplies, materials and equipment may be reconditioned by prison industries for sale under s. 16.72.

(c) Prior to establishing any prison industry, the department shall provide written notification of its proposed action to the cochairpersons of the joint committee on finance. The cochairpersons shall hold a public hearing before the committee concerning the proposal.

(d) Prison industries may sell wood and metal office furniture and laundry services only to state agencies, as defined in s. 20.001 (1).

(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 non-profit organization as defined in s. 108.02 (19);

(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.

(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. Changes in inmate wage rate schedules may not be made without approval of the prison industries board.

(6) GOAL To the extent possible, prison industries shall be operated in a manner that is similar to private business and indus-

try. The primary goal of prison industries shall be to operate in a profitable manner. Within this goal, inmates employed in prison industries shall be provided with training and work experience that allows them to develop skills necessary to retain employment in outside business and industry. Consistent with available resources, inmates employed in prison industries may be required to take education courses related to their work to enhance their capacity for employment upon release from prison.

(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 shall distribute earnings for the crime victim and witness assistance surcharge under s. 973.045 (4), for the deoxyribonucleic acid analysis surcharge under s. 973.046 (4) and for compliance with s. 303.06 (2) and 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.

(9) STAFF SERVICES The secretary shall appoint the director of prison industries outside the classified service. The department shall provide other staff services to the prison industries board within the classified service.

(10) SALES PERSONNEL Three sales representative positions and one sales manager position to sell and manage the sale of goods and services produced by prison industries shall be in the unclassified civil service.

History: 1975 c. 41 s. 52; 1975 c. 224, 396; 1977 c. 26 ss. 42, 75; 1983 a. 27; 1983 a. 189 s. 329 (28); 1983 a. 524; 1987 a. 27; 1989 a. 31 s. 1673c; Stats. 1989 s. 303 01; 1989 a. 283; 1991 a. 269; 1993 a. 16.

Inmates are not entitled to federal minimum wage protection *Sundby v Fiedler*, 827 F Supp 583 (1993).

303.015 Prison industries board. (1) The prison industries board has the following powers and duties:

(a) The department shall submit each department biennial budget request for prison industries and every substantial department-proposed modification of the prison industries budget to the board for review before it is submitted to the department of administration, governor, joint committee on finance or legislature. If the board does not approve the budget request or modification, the board may develop an alternative proposal or a statement that shall be appended to the budget request or modification and submitted with it.

(b) The board shall develop a plan containing recommendations for the manufacture and marketing of prison industries products, the provision of prison industries services and the provision of research and development activities. Whenever feasible, the plan shall include research activities with a facility involved in the composting of solid waste and sludge from wastewater treatment facilities. The plan may include, but is not limited to, recommended market research, product modifications, manufacturing

techniques, pricing policies, advertising and elimination or establishment of specific industries or products. No prison industry may be established or permanently closed without approval of the board.

(c) Prior to submission to the legislative council staff for review under s. 227.15, departmental rules relating to hiring, termination, evaluation and compensation of, or other conditions of employment for, inmates in prison industries shall be submitted to the board for approval. Board authority over rules shall not extend to determination of which inmates are eligible for employment in prison industries or to security matters.

(d) No purchase of more than \$250,000 may be made for prison industries without prior approval of the board.

(2) When exercising its powers, the board shall consider the effect of its actions on private business, industry and labor.

(3) In this section, "prison industries" does not include any correctional farm operation.

History: 1983 a. 27, 333; 1985 a. 182 s. 57; 1989 a. 31 s. 1675; Stats. 1989 s. 303.015; 1989 a. 335; 1991 a. 39.

303.016 Accounting system. The department shall establish and implement an accounting system for prison industries, in conformance with generally accepted accounting principles, for purposes of internal budget control. The department shall continue to provide cash-based financial reports and information for prison industries that are required by the department of administration.

History: 1983 a. 27; 1989 a. 31 s. 1676; Stats. 1989 s. 303.016; 1989 a. 56 s. 103.

303.018 Annual report. The departments of corrections and administration shall report, on an annual basis, to the joint committee on finance and to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3) on the status of the prison industries program. The report shall include all of the following:

(1) The cash balance of each industry at the end of the previous fiscal year.

(2) The cash balance at the end of the previous fiscal year for all prison industries and, if this amount is negative, whether the negative balance is fully offset by applicable assets specified in s. 20.903 (2).

(3) The amount expended by state agencies for wood furniture and for printing, and the portion of that amount for furniture and printing provided by prison industries.

History: 1983 a. 27; 1989 a. 31 s. 1677c to 1681; Stats. 1989 s. 303.018; 1989 a. 283.

303.019 Quarterly report. The departments of corrections and administration shall report, on a quarterly basis, except for the last quarter in a fiscal year, to the joint committee on finance providing a cash balance summary for each prison industry and a projected fiscal year-end profit and loss statement for the prison industry program. The departments shall submit each report within 30 days after the end of the quarter.

History: 1989 a. 31 ss. 1681g, 1681gm; Stats. 1989 s. 303.019.

303.03 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.

History: 1989 a. 31 s. 1682; Stats. 1989 s. 303.03.

303.04 Correctional 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.

History: 1989 a. 31 s. 1683; Stats. 1989 s. 303.04; 1991 a. 39.

303.05 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.

History: 1989 a. 31 s. 1684; Stats. 1989 s. 303.05.

303.06 Prison products; sale. (1) Except as authorized in sub. (2), no goods, except farm machinery, farm implements and tools, cordage rope and ply goods, manufactured wholly or partly by inmates in any state, city or county penal institution may be offered for sale in the open market.

(2) The department may enter into or renew a contract with a manufacturer or distributor to have prison industries provide products, components or services if at the time that the contract is originally entered into the products, components or services have been supplied to the manufacturer or distributor for the previous 12 months by a facility outside the United States. The department shall collect not less than 5% nor more than 20% of the gross wages of inmates earned under such a contract to be credited to the appropriation under s. 20.455 (5) (i).

History: 1983 a. 272; 1989 a. 31 s. 1685; Stats. 1989 s. 303.06; 1989 a. 283; 1991 a. 269.

303.065 Work release plan for prison inmates.

(1) The department 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 or she has reached parole eligibility under s. 304.06 (1) (b) or 973.014, whichever is applicable, and no person serving a life sentence under s. 939.62 (2m) may be considered for work release.

(2) The department shall promulgate 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 or her 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) (a). 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 the inmate's room, board, clothing and other necessary expenses incident to the inmate's 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 the inmate's 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 or her care. The 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. This paragraph does not apply to wages of inmates participating in the intensive sanctions program.

(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 and any fee charged under s. 301.135;

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

(bn) Payment of the crime victim and witness assistance surcharge under s. 973.045 (4);

(bp) Payment of the deoxyribonucleic acid analysis surcharge under s. 973.046 (4);

(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 the prisoner in writing or which have been reduced to judgment;

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

History: 1981 c. 266 s. 5; 1983 a. 27; 1985 a. 332 s. 251 (3); 1987 a. 238; 1987 a. 244 s. 7; 1987 a. 412; 1989 a. 31 ss. 1686c, 1686m; Stats. 1989 s. 303.065; 1991 a. 39, 316; 1993 a. 16, 289.

There is no need specifically to spell out in s. 56.065 (2), 1987 stats. [now s. 303.065 (2)] the consequences of an escape where other statutes provide for the situation. *Brown v. State*, 73 W (2d) 703, 245 NW (2d) 670.

Section 56.065 (2), 1987 stats. [now s. 303.065 (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).

303.068 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, grandparent, brother or sister who is seriously ill.

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

(c) To contact a prospective employer.

(d) To screen for or diagnose or treat an injury, illness or disease.

(e) To visit a parent, child, spouse, grandparent, brother or sister to facilitate family reintegration and stability.

(1m) In sub. (1), "parent" includes a person who was previously a person acting as parent, as defined in s. 822.02 (8), for the inmate.

(2) The validity of an inmate's request for leave shall be investigated by an employe or designee 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 or designee. 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 in total under sub. (1) (a), (b) and (e). No leave may exceed 3 days, exclusive of travel time, 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.

(4m) (a) In this subsection:

1. "Member of the family" means spouse, child, sibling, parent or legal guardian.

2. "Victim" means a person against whom a crime has been committed.

(b) Before an inmate who is imprisoned for a violation of s. 940.01, 940.03, 940.05, 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07 is released on leave under this section,

the department shall make a reasonable effort to notify all of the following persons, if they can be found, in accordance with par. (c) and after receiving a completed card under par. (d):

1. The victim of the crime committed by the inmate or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

2. Any witness who testified against the inmate in any court proceeding involving the offense.

(c) The department shall make a reasonable effort to send the notice, postmarked at least 7 days before an inmate is released on leave, to the last-known address of the persons under par. (b).

(d) The department shall design and prepare cards for any person specified in par. (b) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable inmate and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (b). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

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

History: 1977 c. 312; 1979 c. 154; 1983 a. 27; 1989 a. 31 s. 1687; Stats. 1989 s. 303.068; 1993 a. 479.

303.069 Correctional institution enterprises; activities of inmates. The department shall record the source of all moneys received under s. 20.410 (1) (kc), crediting each amount received to the institution where the inmate activity occurred or to the department. The department shall allocate moneys under s. 20.410 (1) (kc) so that the allocation of each institution or the department does not exceed its credit.

History: 1991 a. 39; 1993 a. 437.

303.07 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. 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 this section who could have been sentenced to a state prison is subject to s. 302.11 (1), (1g) and (2). 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 pecuniary earnings and rewards, subject to similar conditions and limitations as those prescribed by s. 302.12 for prisoners in the Wisconsin state prisons.

(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 302.31 to 302.42 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 the camp for less than one year or in lieu of a county jail sentence are subject to s. 302.43.

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); 1983 a. 66, 528; 1985 a. 29 s. 3202 (23); 1989 a. 31 s. 1688; Stats. 1989 s. 303.07; 1993 a. 194.

303.08 "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:

- (a) Seeking employment or engaging in employment training;
- (b) Working at employment;
- (bn) Performing community service work under s. 973.03;
- (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.

(1m) If the sheriff of the county certifies that facilities are not available, the sentencing court may not order that persons committed for nonpayment of a forfeiture imposed for violation of a municipal or county ordinance be permitted to serve the commitment under this section.

(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 the prisoner's petition. The court may withdraw the privilege at any time by order entered with or without notice.

(2m) In those counties with a Huber facility under s. 303.09, the sheriff shall determine whether a person granted leave privileges under this section is to be confined in that facility or in the county jail. The sheriff may transfer persons granted leave privileges under this section between a Huber facility and the county jail.

(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 the 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 the prisoner's 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 the prisoner shall at the prisoner's request be furnished with an adequate nourishing lunch to carry. The sheriff shall charge the prisoner's account for such board. If the prisoner is gainfully self-employed the prisoner shall pay the sheriff for such board, in default of which the prisoner's 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 the prisoner in writing or which have been reduced to judgment;
- (e) The balance, if any, to the prisoner upon the prisoner's 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. 302.43 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. 302.43 as might otherwise be made by the sentencing court after the prisoner is received at the jail.

(8) The county board of supervisors in a county with a single-county department or the county boards of supervisors in counties with a multicounty department may by resolution direct that functions of the sheriff under sub. (3) or (5), or both, be performed by the county department under s. 46.215 or 46.22; or, if the county board of supervisors in a county with a single-county department or the county boards of supervisors in counties with a multicounty department 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 county board of supervisors in a county with a single-county department or the county boards of supervisors in counties with a multicounty department or the court, whichever made it.

(9) The county department under s. 46.215 or 46.22 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 the prisoner's 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:

- (a) "Jail" includes a house of correction and, except for purposes of sub. (13), a Huber facility under s. 303.09.

(b) "Sheriff" includes the superintendent of a house of correction.

(12) In counties having a house of correction, 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. 303.065.

(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; 1983 a. 254; 1985 a. 150, 176; 1989 a. 31 s. 1689; Stats. 1989 s. 303.08; 1989 a. 56 ss. 104, 105; 1989 a. 107 s. 153; 1991 a. 316; 1993 a. 89.

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.

303.09 Huber facilities. (1) The county board of any county may establish, relocate and maintain an unlocked facility for use exclusively by persons granted leave privileges under s. 303.08 (1) and persons confined under s. 973.09 (4) or 973.11 (1) (b). The facility need not be located at the county seat.

(2) The county boards of 2 or more counties may jointly establish, relocate and maintain a facility described in sub. (1). The operation and expenses of the facility shall be governed by an agreement between those counties. In a jointly established facility, authority under ss. 303.08 (2m), 973.09 (4) and 973.11 (1) (b) may be exercised by a sheriff of any of the counties which jointly establish the facility. The agreement shall specify who has authority to act under ss. 303.08 (2m), 973.09 and 973.11 (1) (b).

History: 1983 a. 254; 1989 a. 31 s. 1690; Stats. 1989 s. 303.09; 1991 a. 253.

303.16 County house of correction. (1) The county board of any county may, pursuant to s. 301.37, establish, relocate and maintain within the county a house of correction for the reformation and employment of persons sentenced to confinement therein.

(2) The expenses of maintaining a house of correction under sub. (1), above all receipts for the labor of persons confined therein and for the support of prisoners therein whose support is not chargeable to the applicable 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 the county.

(3) Any 2 or more counties may jointly provide for one county house of correction if each of the counties has a population of less than 500,000. Any jointly established house of correction is the county house of correction of each of the counties so joining. All of the county boards must agree before any action is taken under this section or s. 303.17.

History: 1981 c. 314; 1989 a. 31 s. 1691; Stats. 1989 s. 303.16; 1993 a. 89.

303.17 Administration and management. (1) The county board of supervisors shall control the management of a house of correction under s. 303.16, pursuant to such regulations and under the direct supervision and control of such officers as the county board of supervisors prescribes. No such regulation may be finally adopted on the day on which it is first presented to the county board of supervisors for consideration, nor until it has been considered and reported upon by the proper committee of the county board of supervisors. The county board of supervisors may by ordinance place the management of the house of correction under the control of the county department under s. 46.21 or 46.23, whichever is applicable, and in that event s. 46.21 or 46.23, so far as applicable, shall control. The county board of supervisors may by ordinance resume control of the management of the house of correction. The county board of supervisors shall, in accordance with the civil service law, prescribe the number and com-

pensation of all personnel needed for the administration of the house of correction, 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 or other chief executive officer and the municipal attorney of its most populous city, village or town 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 report in writing to the county board of supervisors at its annual meeting, or to the county department under s. 46.21 or 46.23 if the county department 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; 1985 a. 176; 1989 a. 31 s. 1692; Stats. 1989 s. 303.17; 1993 a. 89.

303.18 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 one year, 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 city, village or town in the county shall, at a time 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 the city, village or town 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. 303.19. 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 the inmate 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; 1987 a. 388; 1989 a. 31 s. 1693; Stats. 1989 s. 303.18; 1991 a. 316; 1993 a. 246.

303.19 Employment of prisoners; time credits, earnings and rewards. (1) The superintendent of the house of correction 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 at leisure.

(2) The superintendent may employ such prisoners outside of the institution, for the purpose of cultivating the farm of the 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 the county. In all such cases, the superintendent shall detail a force from the house of correction as the superintendent considers necessary to guard the 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. 302.11.

(4) The county board may, pursuant to its regulations approved by the department, extend to those prisoners similar pecuniary earnings and rewards, subject to similar conditions and limitations as those prescribed by s. 302.12 for prisoners in the Wisconsin state prisons.

History: 1971 c. 36; 1977 c. 418 s. 924 (18) (e); 1983 a. 66; 1989 a. 31 s. 1694; Stats. 1989 s. 303.19; 1989 a. 359

Prisoners' due process rights discussed. *Wolff v. McDonnell*, 418 US 539.

303.20 United States convicts. A county 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.

History: 1989 a. 31 s. 1695; Stats. 1989 s. 303.20; 1993 a. 89.

303.21 Compensation to injured prisoners. (1) (a) 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 depart-

ment 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 installments. 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.

(b) Inmates are included under par. (a) if they are participating in a structured work program away from the institution grounds under s. 302.15. Inmates are not included under par. (a) if they are employed in a prison industry under s. 303.06 (2), participating in a work release program under s. 303.065 (2) or participating in the transitional employment program, but they are eligible for worker's compensation benefits as provided under ch. 102.

(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; 1985 a. 29; 1989 a. 31 s. 1696; Stats. 1989 s. 303.21; 1993 a. 81.

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.*

303.215 Compensation to prisoners injured in prison industries employment. In accordance with s. 102.03

(2), for an inmate of a state institution employed under s. 303.06 (2), compensation under ch. 102 on being released from the institution; either on parole or on final discharge, is the exclusive remedy against the department and any employe of the department for any injury sustained by the inmate while performing service growing out of and incidental to that employment. The department shall make any payments required under this section from the revolving appropriation for the operation of prison industries or, if there is no revolving appropriation for the operation of prison industries, from the general fund.

History: 1993 a. 81.

303.22 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.

History: 1989 a. 31 s. 1697; Stats. 1989 s. 303.22.