

CHAPTER 301

CORRECTIONS

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301.001 Purposes of chapters. The purposes of this chapter and chs. 302 to 304 are to prevent crime by an attack on its causes; to provide a just, humane and efficient program of rehabilitation of offenders; and to coordinate and integrate corrections programs with other social services. In creating the department of corrections, chs. 301 to 304, the legislature intends that the state continue to avoid sole reliance on incarceration of offenders and continue to develop, support and maintain professional community programs and placements.

History: 1989 a 31, 107.

301.01 Definitions. In this chapter and chs. 302 to 304:

- (1) "Department" means the department of corrections.
- (2) "Prisoner" means any person who is either arrested, incarcerated, imprisoned or otherwise detained in excess of 12 hours by any law enforcement agency of this state, except when detention is pursuant to s. 51.15, 51.20, 51.45 (11) (b) or 55.06 (11) (a) or ch. 980. "Prisoner" does not include any of the following:
 - (a) Any person who is serving a sentence of detention under s. 973.03 (4) unless the person is in the county jail under s. 973.03 (4) (c).
 - (b) Any resident of a secured correctional facility, as defined in s. 48.02 (15m).
 - (c) Any child held in custody under ss. 48.19 to 48.21.
 - (d) Any child participating in the mother-young child care program under s. 301.049.
- (3) "Secretary" means the secretary of corrections.
- (4) "State correctional institution" means a state prison under s. 302.01.
- (5) "Type 1 prison" means a state prison under s. 302.01, but excludes any institution that meets the criteria under s. 302.01 solely because of its status under s. 301.048 (4) (b).
- (6) "Type 2 prison" means a state prison under s. 302.01 that meets the criteria under s. 302.01 solely because of its status under s. 301.048 (4) (b).

History: 1989 a 31, 107; 1991 a 39; 1993 a 479.

301.02 Institutions governed. The department shall maintain and govern the state correctional institutions.

History: 1989 a 31

301.03 General corrections authority. The department shall:

(1) Supervise, manage, preserve and care for the buildings, grounds and other property pertaining to the state correctional institutions and promote the objectives for which they are established.

(2) Supervise the custody and discipline of all prisoners and the maintenance of state correctional institutions and the industries therein.

(2g) Provide alcohol or other drug abuse assessments so that a prisoner can receive such an assessment either during his or her initial assessment and evaluation period in the state prison system or at the prison where he or she is placed after the initial assessment and evaluation period.

(2m) Provide alcohol or other drug abuse treatment at each state prison except a Type 2 prison, the correctional institution authorized under s. 301.046, a minimum security correctional institution authorized under s. 301.13 or a state-local shared correctional facility established under s. 301.14.

(2r) Conduct drug testing of prospective parolees who have undergone treatment while in state prison.

(3) Administer parole and probation matters, except that the decision to grant or deny parole to inmates shall be made by the parole commission and the decision to revoke probation or parole in cases in which there is no waiver of the right to a hearing shall be made by the division of hearings and appeals in the department of administration. The secretary may grant special action parole releases under s. 304.02. The department shall promulgate rules establishing a drug testing program for probationers and parolees. The rules shall provide for assessment of fees upon probationers and parolees to partially offset the costs of the program.

(3c) If requested by the department of health and social services, contract with that department to supervise and provide services to persons who are conditionally transferred or discharged under s. 51.37 (9), conditionally released under s. 971.17 (3) or placed on supervised release under s. 980.06 (2) or 980.08.

(3d) If requested by the department of health and social services, contract with that department to provide a secure mental health unit or facility under s. 980.065 (2).

(3g) Provide treatment for alcoholics and intoxicated persons on parole.

(3m) Monitor compliance with deferred prosecution agreements under s. 971.39.

(3r) If any restitution ordered under s. 973.20 (1) remains unpaid at the time that a person's probation or sentence expires, or he or she is discharged by the department, give to the person upon release, or send to the person at his or her last-known address, written notification that a civil judgment may be issued against the person for the unpaid restitution.

(4) If requested by the governor, make recommendations as to pardons or commutations of sentence.

(5) Examine all institutions authorized by law to receive and detain witnesses, prisoners or convicted persons, and inquire into all matters relating to their management, including the management of witnesses, prisoners or convicted persons, and the condition of buildings and grounds and other property connected with the institutions.

(6) Direct the correctional psychiatric service in all state correctional institutions.

(6m) On or before January 30 of each year, after consultation with the department of health and social services, report 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 all of the following:

(a) The number of prisoners transferred to a mental health institute under s. 51.20 (13) (a) 4. and their average length of stay and the number of prisoners transferred to a mental health institute on a voluntary basis and their average length of stay.

(b) The number of prisoners being treated with psychotropic drugs on both a voluntary and involuntary basis and the types of drugs being used.

(c) A description of the mental health services available to prisoners on both a voluntary and involuntary basis.

(6r) By January 30 of each year, submit a report 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 number of prisoners that the department considers to be violent and the total number of prisoners.

(7) Direct the educational programs, including an adult basic education program, in all state correctional institutions. The department shall test the reading ability of each prisoner.

(7m) Supervise criminal defendants accepted into the custody of the department under s. 969.02 (3) (a) or 969.03 (1) (a). The department shall charge the county that is prosecuting the defendant a fee for providing this supervision. The department shall set the fee by rule.

(9) Supervise all persons placed under s. 48.366 (8) in a state prison.

(9m) Supervise all persons placed in the youthful offender program under s. 48.537.

NOTE: Sub. (9m) is created eff. 12-1-95 by 1993 Wis. Act 377.

(12) Cooperate and coordinate its activities with other state and local agencies to provide educational, social, health and other services to offenders, except as provided in s. 302.386 (5).

History: 1989 a 31, 107, 121, 188, 336; 1991 a 39; 1993 a 16, 377, 479

301.035 Division of hearings and appeals; administrator's general duties. The administrator of the division of hearings and appeals in the department of administration shall:

(1) Serve as the appointing authority of the employees of the division under s. 230.06.

(2) Assign hearing examiners from the division to preside over hearings under ss. 48.357 (5), 302.11 (7), 973.10 and 975.10 (2) and ch. 304.

(4) Supervise employees in the conduct of the activities of the division and be the administrative reviewing authority for deci-

sions of the division under ss. 48.357 (5), 302.11 (7), 973.10, 973.155 (2) and 975.10 (2) and ch. 304.

(5) After consultation with the department of corrections, promulgate rules relating to the exercise of the administrator's and the division's powers and duties.

History: 1989 a 31, 107.

301.04 Legal actions. The department may sue and be sued.

History: 1989 a 31.

301.045 Investigations. The secretary may inquire into any matter affecting corrections and hold hearings, subpoena witnesses and make recommendations on such matters to the appropriate public or private agencies.

History: 1989 a 31.

301.046 Community residential confinement.

(1) INSTITUTION STATUS. The department shall establish and operate a community residential confinement program as a correctional institution under the charge of a superintendent. Under the program, the department shall confine prisoners in their places of residence or other places designated by the department. The secretary may allocate and reallocate existing and future facilities as part of the institution. The institution is subject to s. 301.02 and is a state prison as defined in s. 302.01. Construction or establishment of the institution shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities for the institution are not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place and are exempt from inspections required under s. 301.36.

(2) INMATE, OFFICER AND EMPLOYEE STATUS. Inmates confined under sub. (1) are under the care and control of the institution, subject to its rules and discipline and subject to all laws pertaining to inmates of other correctional institutions. Courts may not directly commit persons to the institution under sub. (1). Officers and employees of the institution are subject to the same laws pertaining to other correctional institutions.

(3) ELIGIBILITY. The department shall determine those prisoners who are confined under sub. (1). Except as provided in sub. (3m), a prisoner is eligible for this confinement only under all of the following conditions:

(c) The prisoner is not serving a life sentence.

(d) The prisoner is eligible for parole under s. 304.06 (1) (b) or is serving a sentence that is not longer than 3 years.

(3m) INTENSIVE SANCTIONS PROGRAM PARTICIPANTS. The department may confine any intensive sanctions program participant under sub. (1).

(4) NOTIFICATION. (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 a prisoner is confined under sub. (1) for a violation of s. 940.03, 940.05, 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07, 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 prisoner 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 prisoner 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 a prisoner is confined

under sub. (1), 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 prisoner 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).

(e) Before a prisoner is confined under sub. (1), the department shall notify the police chief of any community and the sheriff and district attorney of any county where the prisoner will be confined.

(5) ELECTRONIC SURVEILLANCE The department shall monitor any prisoner's confinement under sub. (1) by the use of an electronic device worn continuously on the prisoner's person or by the confinement of the prisoner in supervised places designated by the department. The department may permit the prisoner to leave confinement for employment, education or other rehabilitative activities.

(5m) FEE The prisoner shall pay any fee charged under s. 301.135 (3).

(6) ESCAPE Any intentional failure of a prisoner to remain within the extended limits of his or her confinement or to return within the time prescribed by the superintendent is considered an escape under s. 946.42 (3) (a).

History: 1989 a. 31 ss. 961m, 961mb; Stats. 1989 s. 301.046; 1989 a. 251; 1991 a. 39; 1993 a. 97, 227, 479.

Read together, ss. 301.045 and 301.048 permit an escape charge when a prisoner in community residential confinement cuts off an electronic bracelet and fails to return. *State v. Holliman*, 180 W (2d) 73 (Ct. App. 1993).

301.048 Intensive sanctions program. (1) PROGRAM ADMINISTRATION AND DESIGN. The department shall administer an intensive sanctions program. The department shall design the program to provide all of the following:

(a) Punishment that is less costly than ordinary imprisonment and more restrictive than ordinary probation or parole supervision.

(b) Component phases that are intensive and highly structured.

(c) A series of component phases for each participant that is based on public safety considerations and the participant's needs for punishment and treatment.

(2) ELIGIBILITY. A person enters the intensive sanctions program only if he or she has been convicted of a felony and only under one of the following circumstances:

(a) A court sentences him or her to the program under s. 973.032.

(b) He or she is a prisoner serving a felony sentence not punishable by life imprisonment and the department directs him or her to participate in the program.

(c) The parole commission grants him or her parole under s. 304.06 and requires his or her participation in the program as a condition of parole under s. 304.06 (1x).

(d) The department and the person agree to his or her participation in the program as an alternative to revocation of probation or parole.

(3) COMPONENT PHASES. (a) The department shall provide each participant with one or more of the following sanctions:

1. Placement in a Type 1 prison or a jail, county reforestation camp, residential treatment facility or community-based residential facility. The department may not place a participant under this paragraph for more than one year or, if applicable, the period specified by the court under s. 973.032 (3) (b), whichever is shorter, except as provided in s. 973.032 (4).

2. Intensive or other field supervision.

3. Electronic monitoring.

4. Community service.

5. Restitution.

6. Other programs as prescribed by the department.

(b) The department may provide the sanctions under par. (a) in any order and may provide more than one sanction at a time. Subject to the cumulative time restrictions under par. (a) 1., the department may return to a sanction that was used previously for a participant. A participant is not entitled to a hearing regarding the department's exercise of authority under this subsection unless the department provides for a hearing by rule.

(c) The department may provide a participant with alcohol or other drug abuse outpatient treatment and services or mental health treatment and services.

(d) A person may seek review of a final decision of the department of corrections, or of the division of hearings and appeals in the department of administration acting under s. 304.06 (3), relating to sanctions, discipline or revocation under or termination from the intensive sanctions program only by the common law writ of certiorari.

(4) STATUS. (a) A participant is in the custody and under the control of the department, subject to its rules and discipline. A participant entering the program under sub. (2) (a) or (b) is a prisoner. A participant entering the program under sub. (2) (c) is a prisoner, except that he or she is a parolee for purposes of revocation. A participant entering the program under sub. (2) (d) is a prisoner, except that he or she remains a probationer or parolee, whichever is applicable, for purposes of revocation.

(am) A participant who is a parolee for purposes of revocation is subject to revocation for violation of any condition of parole or any rule or condition applicable because he or she is a program participant. A participant who is a probationer for purposes of revocation is subject to revocation for violation of any condition of probation or any rule or condition applicable because he or she is a program participant.

(b) The department shall operate the program as a correctional institution. The secretary may allocate and reallocate existing and future facilities as part of the institution. The institution is subject to s. 301.02 and is a state prison as defined in s. 302.01. Construction or establishment of the institution shall be in compliance with all state laws except s. 32.035 and ch. 91. In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities for the institution are not subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place and are exempt from inspections required under s. 301.36.

(4m) NOTIFICATION. (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) As soon as possible after a prisoner, probationer or parolee who has violated s. 940.03, 940.05, 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07 enters the intensive sanctions program, 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 prisoner, probationer or parolee 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 prisoner, probationer or parolee in any court proceeding involving the offense.

(c) The department shall make a reasonable effort to send the notice 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 participant 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) **ESCAPE** Any intentional failure of a participant to remain within the extended limits of his or her placement or confinement under sub. (3) (a) or to return within the time prescribed by the administrator of the division is considered an escape under s. 946.42 (3) (a).

(6) **DISCHARGE** The department may discharge a participant from participation in the program and from departmental custody and control at any time.

(7) **REIMBURSEMENT** The department shall provide reimbursement to counties and others for the actual costs incurred under sub. (3), as authorized by the department, from the appropriations under s. 20.410 (1) (ab) and (ai).

(8) **EDUCATION** The department and the director of state courts shall educate judges, district attorneys, criminal defense attorneys, county sheriffs, jail administrators and members of the public regarding the intensive sanctions program.

(9) **INFORMATION FOR THE SENTENCING COMMISSION** The department shall provide the sentencing commission with information to assist the commission in promulgating rules under s. 973.011 (2). The department shall charge the commission for the actual costs of providing the information.

(10) **RULES** The department shall promulgate rules to implement this section.

History: 1991 a 39; 1993 a 79, 97, 227, 437, 479.

Intensive Sanctions: A New Sentencing Option Fiedler Wis Law June 1992. Read together, ss. 301.046 and 301.048 permit an escape charge when a prisoner in community residential confinement cuts off an electronic bracelet and fails to return. *State v. Holliman*, 180 W (2d) 348, 509 NW (2d) 73 (Ct App 1993)

301.049 Mother-young child care program.

(1) **PROGRAM** The department shall administer a mother-young child care program allowing females to retain, during participation in the program, the physical custody of their children.

(2) **ELIGIBILITY** (a) The department shall provide the program for females who are:

1. Prisoners; or
2. On probation or parole and who, if approved by the department under par. (b), would participate in the program as an alternative to revocation of probation or parole.

(b) A female covered under par. (a) and her child may enter the program if all of the following conditions are met:

1. The female covered under par. (a) consents to participate.
2. The department approves and the female covered under par. (a) is pregnant or has a child who has not attained the age of one year.

(3) **SERVICES** The department shall do all of the following under the program:

(a) Place program participants in the least restrictive placement consistent with community safety and correctional needs and objectives.

(b) Provide a stable, safe and stimulating environment for each child participating in the program.

(d) Provide program services with the goal of achieving a stable relationship between each mother and her child during and after participation in the program.

(e) Prepare each mother to be able to live in a safe, lawful and stable manner in the community upon parole or discharge.

(4) **PURCHASE OF SERVICES** The department shall purchase the services of a private, nonprofit organization to administer the mother-young child care program.

History: 1991 a 39, 189

301.05 Gifts; trustee duty. The department may:

(1) Accept gifts, grants or donations of money or property from private sources to be administered by the department for the execution of its functions. All moneys so received shall be paid into the general fund and are appropriated as provided in s. 20.410 (1) (i).

(2) Take and hold in trust all property transferred to the state to be applied to any specified purpose, use or benefit pertaining to any of the institutions under its control or the inmates thereof, and apply the same in accordance with the trust.

History: 1989 a 31.

301.055 Prisoner population limits. The department shall promulgate rules providing limits on the number of prisoners at all state prisons, but excluding those prisoners confined in the institution authorized under s. 301.046 (1) or in a Type 2 prison. The rules shall provide systemwide limits and limits for each state prison, except the department may provide a single limit for the Wisconsin correctional center system. The rules may provide procedures allowing the department to exceed any systemwide, institution or center system limit in an emergency situation.

History: 1989 a 31 ss. 968r, 968rc; Stats 1989 s. 301.055; 1989 a 107; 1991 a 39; 1993 a 16.

301.06 Education and prevention. The department may develop and maintain education and prevention programs.

History: 1989 a 31, 107

301.07 Cooperation with federal government. The department may cooperate with the federal government in carrying out federal acts concerning corrections.

History: 1989 a 31, 107.

301.075 Disbursement of funds and facsimile signatures. Withdrawal or disbursement of moneys deposited in a public depository, as defined in s. 34.01 (5), to the credit of the department or any of its divisions or agencies shall be by check, share draft or other draft signed by the secretary or by one or more persons in the department designated by written authorization of the secretary. The checks, share drafts and other drafts shall be signed personally or by use of a mechanical device adopted by the secretary or the secretary's designees for affixing a facsimile signature. Any public depository shall be fully warranted and protected in making payment on any check, share draft or other draft bearing the facsimile signature notwithstanding that the facsimile signature may have been placed on the check, share draft or other draft without the authority of the secretary or the designees.

History: 1989 a 31.

301.08 Purchase of care and services. (1) AUTHORIZATION (a) The department may contract with public or voluntary agencies or others to:

1. Purchase in full or in part care and services which it is authorized by any statute to provide as an alternative to providing such care and services itself.

2. Purchase or provide in full or in part the care and services which county agencies may provide or purchase under any statute and to sell to county agencies such portions thereof as the county agency may desire to purchase.

3. Sell services, under contract, which the department is authorized to provide by statute, to any federally recognized tribal governing body.

(b) The department may:

1. Contract with public, private or voluntary agencies for the purchase of goods, care and services for persons committed or

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sentenced to a state correctional or penal institution, placed on probation to the department by a court of record, or released from a state correctional or penal institution. Services shall include, but are not limited to, diagnostic services, evaluation, treatment, counseling, referral and information, day care, inpatient hospitalization, transportation, recreation, special education, vocational training, work adjustment, sheltered employment, special living arrangements and legal and protective services.

2. Contract with one public, private or voluntary agency for the supervision, maintenance and operation of one minimum security correctional institution in a county having a population of 500,000 or more. To be eligible, an agency must have prior relevant experience.

(2) **RESTRICTIONS** (a) All care and services purchased by the department shall be authorized and contracted for under the standards established under this subsection. For purchases of \$10,000 or less the requirement for a written contract may be waived by the department. If the department directly contracts for services, it shall follow the procedures in this subsection in addition to meeting purchasing requirements established in s. 16.75.

(b) All care and services purchased shall meet standards established by the department and other requirements specified by purchaser in the contract. Based on these standards the department shall establish standards for cost accounting and management information systems that shall monitor the utilization of those services, and document the specific services in meeting the service plan for the client and the objective of the service.

(c) 1. Purchase of service contracts shall be written in accordance with rules and procedures established by the department. Contracts for client services shall show the total dollar amount to be purchased and for each service the number of clients to be served, number of client service units, the unit rate per client service and the total dollar amount for each service.

2. Payments under a contract may be made on the basis of actual allowable costs or on the basis of a unit rate per client service multiplied by the actual client units furnished each month. The contract may be renegotiated when units vary from the contracted number. The purchaser shall determine actual marginal costs for each service unit less than or in addition to the contracted number.

3. For proprietary agencies, contracts may include a percentage add-on for profit according to rules promulgated by the department.

4. Reimbursement to an agency may be based on total costs agreed to by the parties regardless of the actual number of service units to be furnished, when the agency is entering into a contract for a new or expanded service that the purchaser recognizes will require a start-up period not to exceed 180 days. The reimbursement applies only if identified client needs necessitate the establishment of a new service or expansion of an existing service.

5. If the purchaser finds it necessary to terminate a contract prior to the contract expiration date for reasons other than nonperformance by the provider, actual cost incurred by the provider may be reimbursed for an amount determined by mutual agreement of the parties.

6. Advance payments of up to one-twelfth of an annual contract may be allowed under the contract. If the advance payment exceeds \$10,000, the provider shall supply a surety bond for an amount equal to the amount of the advance payment applied for. No surety bond is required if the provider is a state agency. The cost of the surety bond shall be allowable as an expense.

(d) For purposes of this subsection and as a condition of reimbursement, each provider under contract shall:

1. Except as provided in s. 46.036 (4) (a), maintain a uniform double entry accounting system and a management information system which are compatible with cost accounting and control systems prescribed by the department.

2. Cooperate with the department and purchaser in establishing costs for reimbursement purposes.

3. Unless waived by the department, biennially, or annually if required under federal law, provide the purchaser with a certified financial and compliance audit report. The audit shall follow standards that the department prescribes. A purchaser may waive the requirements of this subdivision as provided in s. 46.036 (4) (c).

4. Transfer a client from one category of care or service to another only with the approval of the purchaser.

5. Charge a uniform schedule of fees established under s. 46.03 (18) unless waived by the purchaser with approval of the department. Whenever providers recover funds attributed to the client, the funds shall offset the amount paid under the contract.

(e) The purchaser shall recover from provider agencies money paid in excess of the conditions of the contract from subsequent payments made to the provider.

(f) Contracts may be renegotiated by the purchaser under conditions specified in the contract.

(g) The service provider under this section may appeal decisions of the purchaser in accordance with terms and conditions of the contract and ch. 68 or 227.

History: 1989 a. 31, 107.

301.09 Grants for pilot programs or demonstration projects. Whenever the department provides a grant after August 15, 1991, for a pilot program or demonstration project, the department shall do all of the following:

(1) State on the grant application that the funding for the program or project will be provided by the department once or for a limited period of time, whichever is applicable.

(2) Require the applicant to provide, as part of the grant application, a plan that describes:

(a) How activities funded by the grant will be phased out or how the program or project will be eliminated; or

(b) What other funding sources will be available to support the program or project when state funding is eliminated.

History: 1991 a. 39

301.10 Purchases, bills, audits, payments.

(1) **STEWARDS AS BUSINESS MANAGER.** The steward of each institution under the control of the department of corrections shall be the local business manager and requisitioning officer, subject to the direction and rules of the department, and within the limits of the approved monthly estimates shall purchase all necessary materials and supplies, as provided in ss. 16.70 to 16.82. The steward shall have the immediate charge of all books, accounts, papers and records relating to the institution's financial management, shall keep detailed accounts of all receipts and expenditures, and shall be responsible for the safekeeping and economical use of all stores and supplies.

(2) **CORRECTIONS INSTITUTIONS PREAUDIT; PAYMENTS.** Unless otherwise provided by law, no bills may be incurred in the management of the institutions nor be paid until they have been audited by the department of corrections under the supervision of the department of administration. All payments shall be made on the warrant of the department of administration drawn in accordance with the certificate of the proper designated officer of the department of corrections. All claims and accounts, before being certified to the department of administration by the department of corrections, shall be verified and approved as provided in s. 16.53.

History: 1989 a. 31

301.105 Telephone company commissions. The department shall collect moneys for commissions from telephone companies for contracts to provide telephone services to inmates. The department shall transmit those moneys to the state treasurer. The state treasurer shall do all of the following:

(1) Deposit two-thirds of all moneys collected under this section in the general fund as general purpose revenue — earned.

(2) Credit one-third of all moneys collected under this section to the appropriation account under s. 20.410 (1) (gt).

History: 1993 a 16.

301.11 Reports of corrections institutions.

(1) **MONTHLY REPORT.** The officer in charge of each state institution under the control of the department shall report monthly to the department an itemized statement of all receipts and disbursements and of the daily number of inmates, officers, teachers and employes, and of the wages paid to each.

(2) **BIENNIAL REPORT.** On July 1 in each even-numbered year, the officer in charge of each state institution under the control of the department shall submit a report to the department, covering the preceding biennial fiscal term, which includes a summarized statement of the management of every department of the institution and of all receipts and disbursements, and any other information the department requires.

History: 1989 a 31.

301.13 Minimum security correctional institutions.

The department may establish and operate minimum security correctional institutions. The secretary may allocate and reallocate existing and future facilities as part of these institutions. The institutions are subject to s. 301.02 and are state prisons as defined in s. 302.01. Inmates from Wisconsin state prisons may be transferred to these institutions and they shall be subject to all laws pertaining to inmates of other penal institutions of the state. Officers and employes of the institutions shall be subject to the same laws as pertain to other penal institutions. Inmates shall not be received on direct commitment from the courts. In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities at institutions which are community correctional residential centers initially established prior to July 2, 1983, shall not be subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place. The department shall establish a procedure for soliciting responses from interested communities and persons regarding potential sites for the institutions under this section, except the procedure does not apply to the 125-bed community correctional center in the city of Waupun. The department shall consider locations proposed under this procedure and may consider any other locations on its own initiative. The department need not promulgate rules regarding the site consideration procedures under this section.

History: 1977 c. 418; 1983 a 27; 1985 a 29; 1987 a 5; 1989 a 31 s. 961; Stats 1989 s. 301.13.

301.135 Electronic monitoring. (1) The department may contract with counties to provide electronic monitoring services relating to criminal offenders and to children who are placed on electronic monitoring under s. 48.21 (4m), 48.34 (3g) or 48.355 (6) (d) 3. The department shall charge a fee to counties for providing these services.

(2) The department may charge a fee to offenders under its supervision to cover the costs associated with electronic monitoring.

(3) The department may charge a fee to offenders who are confined under s. 301.046 or who are in the intensive sanctions program under s. 301.048.

(3m) The department may not charge a fee to a child who is placed on electronic monitoring under s. 48.21 (4m), 48.34 (3g) or 48.355 (6) (d) 3. to cover the cost of electronic monitoring of that child.

(4) The department shall set the fees charged to offenders under subs. (2) and (3) by rule.

History: 1989 a 31 ss. 958, 959; Stats 1989 s. 301.135; 1991 a 39; 1993 a 98.

301.14 State-local shared correctional facilities. In cooperation with any county or group of counties, the department

may contract for the establishment and operation of state-local shared correctional facilities under s. 302.45. Except as provided in s. 302.45 (4), the secretary may allocate and reallocate existing and future facilities as state-local shared correctional facilities. The shared facilities shall be institutions under s. 301.02 and shall be prisons under s. 302.01. Inmates from Wisconsin state prisons may be transferred to these facilities and, except as to any separate rules established in the contract governing a shared facility, shall be subject to all laws pertaining to inmates of other penal institutions of this state. Officers and employes of the facilities shall be subject to the same laws as pertain to other penal institutions. Inmates may not be received on direct commitment from the courts.

History: 1983 a. 332; 1989 a. 31 s. 967; Stats 1989 s. 301.14

NOTE: 1983 Wisconsin Act 332 s. 1, which created this section, contains a long prefatory note explaining the bill. See 1983 Session Laws.

301.15 Medium security prison. The department may construct a medium security prison to be known as the Fox Lake correctional institution on state-owned land known as prison farm 10 in Dodge county. Inmates from the Wisconsin state prisons may be transferred to this institution and they shall be subject to all laws pertaining to inmates of other penal institutions of this state. Officers and employes of the institutions shall be subject to the same laws as pertain to other penal institutions. Inmates shall not be received on direct commitment from the courts.

History: 1977 c. 418 s. 924 (18) (b); 1989 a 31 s. 962; Stats 1989 s. 301.15.

301.16 Construction or establishment of certain institutions. (1) The department shall construct or establish an adult medium/maximum security institution or an adult medium security institution or both.

(1m) The medium security institution under sub. (1) shall be the Oshkosh correctional institution and shall be located north of Oshkosh, north of Snell road and south of Sunnyview road at the site which, on July 31, 1981, is the site of the Winnebago correctional farm.

(1o) (a) In addition to the institutions under sub. (1), the department shall establish a correctional institution located at the St. Bonaventure site which is located between CTH "H" on the west and 90th street on the east in the village of Sturtevant in Racine county.

(b) In the selection of classified service employes of the institution specified in par. (a), the appointing authority shall, whenever possible, use the expanded certification program under rules of the administrator of the division of merit recruitment and selection in the department of employment relations to ensure that employes of the institution reflect the general population of either the county in which the institution is located or the most populous county contiguous to the county in which the institution is located, whichever population is greater. The administrator of the division of merit recruitment and selection in the department of employment relations shall provide guidelines for the administration of this selection procedure.

(1p) Inmates from the Wisconsin state prisons may be transferred to the institutions under this section and they shall be subject to all laws pertaining to inmates of other penal institutions of this state. Officers and employes of the institutions shall be subject to the same laws as pertain to other penal institutions. Inmates shall not be received on direct commitment from the courts.

(2) Construction or establishment of the institutions shall be in compliance with all state laws except s. 32.035 and ch. 91.

(3) In addition to the exemptions under s. 13.48 (13), construction or establishment of the institutions shall not be subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place.

History: 1979 c. 221; 1981 c. 20, 317, 387; 1983 a. 16; 1983 a. 27 ss. 953p, 953r, 2200 (15); 1985 a 29; 1987 a 5; 1989 a 31 ss. 964, 964m; Stats 1989 s. 301.16; 1991 a. 39.

See note to Art. IV, sec. 18, citing Milwaukee Brewers v. DH&SS, 130 W (2d) 79, 387 NW (2d) 254 (1986).

301.17 Minimum security corrections institutions.

The department may, with the approval of the joint committee on finance, increase staffing levels at minimum security institutions sufficiently to allow temporary placement of medium security inmates at existing minimum security institutions as may be necessary to relieve medium security overcrowding. The temporary placement under this section may constitute a partial use of the institution.

History: 1981 c. 20; 1989 a. 31 s. 973; Stats. 1989 s. 301.17.

301.18 Correctional and other institutions; expansion and establishment of facilities. (1) The department of corrections shall:

(a) Provide the facilities necessary for at least 25 additional beds at Camp Flambeau.

(b) Provide the facilities necessary for at least 45 additional beds for a corrections drug abuse treatment program on the grounds of the Winnebago mental health institute.

(bp) Provide the facilities necessary for not more than 400 beds at the correctional institution under s. 301.16 (1m).

(bx) Provide the facilities necessary for the Racine correctional institution.

(bz) Provide the facilities necessary for not more than 170 additional beds at the Kettle Moraine correctional institution for use associated with alcohol and other drug abuse treatment.

(d) Provide the facilities necessary for at least 40 additional beds at the Green Bay work release center.

(e) Provide the facilities necessary for at least 20 additional beds at Black river camp.

(f) Provide the facilities necessary for at least 20 additional beds at the Oregon camp.

(g) Provide the facilities necessary for housing to alleviate overcrowding.

(1m) The department of health and social services shall provide the facilities necessary to operate the Wisconsin resource center with 160 beds. The facilities may be used for persons transferred under ch. 302.

(2) In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities necessary to comply with sub. (1) or (1m) shall not be subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place.

(3) For compliance with this section, the department of corrections may expend moneys authorized under chapter 29, laws of 1977, section 1606c (1) (b) relating to the correctional system which have not been expended or encumbered or moneys available under residual existing general fund supported borrowing, not to exceed \$1,500,000.

(4) Any purchase, lease or construction of additional correctional facilities is subject to prior approval by the building commission and the joint committee on finance.

(5) This section constitutes enumeration in the authorized state building program for purposes of s. 20.924.

(6) The building commission is encouraged and authorized to utilize the most economical and expeditious construction alternatives available to effectuate completion of the construction projects.

History: 1989 a. 31, 122; 1991 a. 39.

301.21 Contracts with Minnesota. (1) The department may enter into one or more contracts with the state of Minnesota for the transfer and confinement in Minnesota of prisoners who have been committed to the custody of the department. Any such contract shall provide for all of the following:

(a) A termination date.

(b) Provisions concerning the costs of prisoner maintenance, extraordinary medical and dental expenses and any participation in or receipt by inmates of rehabilitative or correctional services,

facilities, programs or treatment, including those costs not reasonably included as part of normal maintenance.

(c) Provisions concerning any participation in programs of inmate employment if any, the disposition or crediting of any payments received by inmates on account of employment, and the crediting of proceeds from or disposal of any products resulting from employment.

(d) Delivery and retaking of inmates.

(e) Waiver of extradition by Minnesota and Wisconsin.

(f) Retention of jurisdiction of the prisoners transferred by Wisconsin.

(g) Regular reporting procedures by Minnesota officials on Wisconsin prisoners.

(h) Provisions concerning procedures for probation, parole and discharge.

(i) The same standards of reasonable and humane care as the prisoners would receive in an appropriate Wisconsin institution.

(j) Any other matters as are necessary and appropriate to fix the obligations, responsibilities and rights of Minnesota and Wisconsin.

(2) Inmates from Wisconsin state prisons while in Minnesota institutions are subject to all provisions of law and regulation concerning the confinement of persons committed for violations of the laws of Minnesota, except as otherwise provided for by any contract entered into under sub. (1).

(3) Any hearing to consider parole to which an inmate confined under this contract may be entitled by the laws of Wisconsin will be conducted by the Wisconsin parole commission under rules of the department.

(4) Sections 16.75 and 301.08 (2) do not apply to contracts entered into under sub. (1).

(5) The provisions of this section are severable, as provided in s. 990.001 (11). The provisions of any contract entered into under sub. (1) are severable. If any provision of such a contract is invalid, or if the application of a provision of the contract to any person or circumstance is invalid, the invalidity does not affect other provisions or applications which can be given effect without the invalid provision or application.

(6) This section constitutes legislative approval for purposes of s. 302.26.

History: 1981 c. 20; 1983 a. 27; 1989 a. 31 s. 965; Stats. 1989 s. 301.21.

301.235 Structures, facilities and permanent improvements. (1) In this section unless the context requires otherwise:

(a) "Existing building", in relation to any conveyance, lease or sublease made under sub. (2) (a) 1., 2. and 3., means all detention, treatment, administrative, recreational, infirmary, hospital, vocational and academic buildings; all dormitories and cottages; all storage facilities, heating plants, sewage disposal plants, and such other buildings, structures, facilities and permanent improvements as in the judgment of the secretary are needed or useful for the purposes of the department, and all equipment therefor and all improvements and additions thereto which were erected, constructed or installed prior to making the conveyance, lease or sublease.

(b) "New building", in relation to any conveyance, lease or sublease made under sub. (2) (a) 1., 2. and 3., means all detention, treatment, administrative, recreational, infirmary, hospital, vocational and academic buildings; all dormitories and cottages; all storage facilities, heating plants, sewage disposal plants, and such other buildings, structures, facilities and permanent improvements as in the judgment of the secretary are needed or useful for the purposes of the department, and all equipment therefor and all improvements and additions thereto which are erected, constructed or installed after making the conveyance, lease or sublease.

(c) "Nonprofit corporation" means a nonstock, nonprofit corporation organized under ch. 181.

(2) The department shall have and may exercise the following powers and duties:

(a) In order to provide new buildings and to enable the construction and financing thereof, to refinance indebtedness created by a nonprofit corporation for the purpose of providing a new building or buildings or additions or improvements thereto which are located on land owned by, or owned by the state and held for, the department or on lands of the institutions under the jurisdiction of the department or owned by the nonprofit corporation, or for any one or more of those purposes, but for no other purpose unless authorized by law, the department has the following powers and duties:

1. Without limitation by reason of any other statute, the power to sell and to convey title in fee simple to a nonprofit corporation any land and any existing buildings thereon owned by, or owned by the state and held for, the department or any of the institutions under the jurisdiction of the department for such consideration and upon such terms and conditions as in the judgment of the secretary are in the public interest.

2. The power to lease to a nonprofit corporation for a term or terms not exceeding 50 years each any land and any existing buildings thereon owned by, or owned by the state and held for, the department or any of the institutions under the jurisdiction of the department upon such terms and conditions as in the judgment of the secretary are in the public interest.

3. The power to lease or sublease from the nonprofit corporation, and to make available for public use, any such land and existing buildings conveyed or leased to the nonprofit corporation under subds. 1. and 2., and any new buildings erected upon the land or upon any other land owned by such nonprofit corporation, upon such terms, conditions and rentals, subject to available appropriations, as the secretary determines are in the public interest. With respect to any property conveyed to the nonprofit corporation under subd. 1., the lease from the nonprofit corporation may be subject or subordinated to one or more mortgages of the property granted by the nonprofit corporation.

4. The duty to submit the plans and specifications for all such new buildings and all conveyances, leases and subleases made under this section to the department of administration and the governor for written approval before they are finally adopted, executed and delivered.

5. The power to pledge and assign all or any part of the revenues derived from the operation of the new buildings as security for the payment of rentals due and to become due under any lease or sublease of the new buildings under subd. 3.

6. The power to covenant and agree in any lease or sublease of the new buildings made under subd. 3. to impose fees, rentals or other charges for the use and occupancy or other operation of the new buildings in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under the lease or sublease.

7. The power to apply all or any part of the revenues derived from the operation of existing buildings to the payment of rentals due and to become due under any lease or sublease made under subd. 3.

8. The power to pledge and assign all or any part of the revenues derived from the operation of existing buildings to the payment of rentals due and to become due under any lease or sublease made under subd. 3.

9. The power to covenant and agree in any lease or sublease made under subd. 3. to impose fees, rentals or other charges for the use and occupancy or other operation of existing buildings in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under the lease or sublease.

10. The power and duty, upon receipt of notice of any assignment by any such nonprofit corporation of any lease or sublease made under subd. 3., or of any of its rights under any such sublease, to recognize and give effect to the assignment, and to pay to the assignee thereof rentals or other payments then due or which

may become due under any such lease or sublease which has been so assigned by the nonprofit corporation.

(b) The state is liable for accrued rentals and for any other default under any lease or sublease made under par. (a) 3., and may be sued therefor on contract as in other contract actions under ch. 775, except that it is not necessary for the lessor under any such lease or sublease or any assignee of the lessor or any person or other legal entity proceeding on behalf of the lessor to file any claim with the legislature prior to the commencement of any such action.

(c) Nothing in this section empowers the secretary or the department to incur any state debt.

(d) All conveyances, leases and subleases made under this section shall be made, executed and delivered in the name of the department and shall be signed by the secretary and sealed with the seal of the department.

(e) All laws, except ch. 150, conflicting with this section are, insofar as they conflict with this section and no further, superseded by this section.

History: 1989 a. 31.

301.24 Lands; condemnation, easements, leases, sales, purchases. (1) CONDEMNATION When the department is authorized and desires to acquire land and is unable to agree with the owner upon the terms of purchase, or when agreement cannot be had without unreasonable delay, the department may condemn the land in the manner prescribed in ch. 32.

(2) **EASEMENTS** The department may grant easements for the extension of municipal and public utilities onto the lands of the institutions under its jurisdiction, for the purpose of connecting railroads, roads, waterworks, sewers, electric lines and similar facilities, to serve the institutions.

(3) **LEASES** The department may lease additional lands for the operation of the institutions under its jurisdiction.

(4) **SALES** The department, with the approval of the building commission, may sell and convey such lands under the jurisdiction of the department as the secretary deems to be in excess of the present or future requirements of the department for either the operation of its facilities or programs, for the maintenance of buffer zones adjacent to its facilities or for other public purposes. The proceeds of the sales shall be credited to the state building trust fund.

(4m) **CORRECTIONAL INSTITUTION PROPERTY DISPOSITION** In addition to any other requirements under this section, the department may sell or otherwise transfer or dispose of the property acquired for the correctional institution under s. 46.05 (1o), 1985 stats., only if the sale, transfer or disposition is approved by the joint committee on finance. The department shall submit a plan for any such proposed sale, transfer or disposition to the committee.

(5) **PURCHASES** The department, with the approval of and release of state building trust funds by the building commission, may acquire by purchase such lands, together with such improvements as are situated thereon, as the secretary deems necessary for the department's farm programs, or for the purpose of providing adequate buffer zones to its existing facilities, or for the purpose of eliminating flexuous boundaries in cooperation with owners of lands adjoining lands under the department's jurisdiction.

(6) **LEASE OF LANDS FOR RADIO RANGE STATION** The department may lease state owned lands under its control situated in section 16, township 24 north, range 18 east, town of Seymour, Outagamie county, not exceeding 2 acres in extent, to the United States of America, to be used by the civil aeronautics administration for a radio range station. The terms of the lease shall be determined by the department and may grant to the lessee authority to erect navigational aids and other structures on such lands. Such lease shall not be effective unless approved by the governor in writing.

History: 1989 a. 31 ss. 974, 975, 2569; 1989 a. 56 s. 84.

301.25 Sewer system at Taycheedah correctional institution. The department, with the approval of the governor, may enter into an agreement containing terms, conditions and covenants approved by the building commission, to participate in the construction of a sanitary sewer system in the area adjacent to the Taycheedah correctional institution in the town of Taycheedah, Fond du Lac county; to connect the sewer system of the Taycheedah correctional institution thereto; to pay sewage disposal charges; and to grant easements or convey land to meet construction requirements.

History: 1975 c. 189 s. 99 (1); 1975 c. 224 s. 146m; 1989 a. 31 s. 1069; Stats. 1989 s. 301.25

301.27 Meal and other charges; vending stands; commissary; and butter and cheese. (1) **CHARGES** In compliance with the compensation plan established under s. 230.12 (3), the department may make and determine charges for meals, living quarters, laundry and other services furnished to employes of the state correctional institutions and members of the employe's family maintained as such. All moneys received from each person on account of these services shall be used for operation of the institutions under s. 20.410 (1) (a). If a chaplain employed in any institution administered by the department is not furnished a residence by the state, \$1,800 or 20% of the chaplain's salary, whichever is greater, is designated as his or her housing allowance.

(2) **VENDING STANDS.** The department shall establish and maintain a revolving fund not exceeding \$60,000 in any of the state institutions administered by the department, for the education, recreation and convenience of the patients, inmates and employes, to be used for the operation of vending stands, canteen operations, reading clubs, musical organizations, religious programs, athletics and similar projects. The funds are exempt from s. 20.906, but are subject to audit by the department and the legislative audit bureau in its discretion.

(3) **COMMISSARY.** With the approval of the governor and the director of personnel, the department, by rule, may provide employes in its institutions with laundry, food, housing and necessary furnishings.

(4) **BUTTER AND CHEESE** No butter or cheese not made wholly and directly from pure milk or cream, salt and harmless coloring matter may be used in any of the institutions of the department, except for the institution authorized under s. 301.046 (1) or a Type 2 prison.

History: 1989 a. 31; 1991 a. 39.

301.28 Training of correctional officers. (1) In this section, "correctional officer" means any person classified as a correctional officer employed by the state whose principal duty is the supervision of inmates at a prison, as defined in s. 302.01.

NOTE: Sub. (1) is amended eff. 12-1-95 by 1993 Wis. Act 377 to read:

(1) In this section, "correctional officer" means any person classified as a correctional officer employed by the state whose principal duty is the supervision of inmates at a prison, as defined in s. 302.01, or the supervision of children at a secured correctional facility, as defined in s. 48.02 (15m), operated by the department.

(2) (a) Correctional officers serving under permanent appointment prior to July 31, 1981 are not required to meet any requirement under par. (b) as a condition of continued employment. Failure of any such correctional officer to fulfill those requirements does not make that person ineligible for any promotional examination for which he or she is otherwise eligible. Those correctional officers may voluntarily participate in this program.

(b) No person may be permanently appointed as a correctional officer unless the person has satisfactorily completed a preservice training program approved by the department.

History: 1981 c. 20; 1989 a. 31 s. 970; Stats. 1989 s. 301.28; 1993 a. 377

301.285 In-service and work experience training. The department may conduct a program of in-service training and staff development and, in cooperation with educational institu-

tions, provide facilities for work experience for students, including subsistence.

History: 1989 a. 31.

301.287 Correctional officer overtime. The department shall maintain a central monitoring system to record the amount of overtime worked by correctional officers.

History: 1991 a. 39.

301.29 Bonds of employes; police powers; investigation of complaints. (1) The steward of each institution under the jurisdiction of the department shall execute and file an official bond. The secretary shall prescribe the sum and sureties for the bond. The steward shall also require any other officer or other person having the possession or custody of any money or property belonging to the state or any institution under its control or supervision to give an official bond, and from time to time renew the bond. The secretary may require a position bond whenever it appears advisable to him or her. The position bond shall have the same coverage as the official bond.

(2) The superintendents of all the state correctional institutions, and the employes under them to whom they delegate police power, may arrest any person within or upon the grounds of the institutions whom they have reason to believe guilty of any offense against the laws or regulations governing the institutions; and for that purpose they shall possess the powers of constables.

(3) The department shall investigate complaints against any institution under its jurisdiction or against the officers or employes of the institutions. For that purpose, the secretary and such officers and employes as the secretary authorizes may summon and swear witnesses, take testimony and compel the production of books and papers. On its own initiative, the department may investigate the affairs of any institution. Any written communication or complaint addressed to the secretary by any inmate, employe or subordinate of an institution shall be immediately forwarded unopened to the addressee.

History: 1989 a. 31.

301.30 Inmate wages, allowances and release payments. The department may pay a wage or an allowance and a release payment to inmates at its institutions. The department shall prescribe the amounts of pay and such hours, health and other conditions in connection with employment as are reasonable.

History: 1989 a. 31.

301.31 Wages to prisoners. The department may provide for assistance of prisoners on their discharge; for the support of their families while the prisoners are in confinement; or for the payment, either in full or ratably, of their obligations acknowledged by them in writing or which have been reduced to judgment by the allowance of moderate wages, to be paid from the operation, maintenance, farm and construction appropriations of the institution in which they are confined. Until the prisoner's final discharge, the funds arising from the wages shall be under the control of the officer in charge of the institution and shall be used for the benefit of the prisoner, the prisoner's family and other obligations specified in this section. Earnings by inmates working in the prison industries and the retention and distribution thereof shall be governed by ss. 303.01 (4) and (8) and 303.06 (2).

History: 1989 a. 31; 1991 a. 269.

301.315 Corrections programs report. The department shall report to the joint committee on finance with a proposal to address negative cash balances associated with closed industries or other corrections programs through the use of moneys appropriated under s. 20.410 as of the date of the proposal.

History: 1989 a. 31.

301.32 Property of prisoners and probationers. (1) **PROPERTY DELIVERED TO STEWARD; CREDIT AND DEBIT.** All money including wages and other property delivered to an officer or employe of any institution for the benefit of a prisoner shall be

delivered to the steward, who shall enter the property upon his or her books to the credit of a prisoner. The property may be used only under the direction and with the approval of the superintendent or warden and for the crime victim and witness assistance surcharge under s. 973.045 (4), the deoxyribonucleic acid analysis surcharge under s. 973.046 or the benefit of the prisoner. If the money remains uncalled for for one year after the prisoner's death or departure from the institution, the superintendent shall deposit it in the general fund. If any prisoner leaves property, other than money, uncalled for at an institution for one year, the superintendent shall sell the property and deposit the proceeds in the general fund. If any person satisfies the department, within 5 years after the deposit, of his or her right to the deposit, the department shall direct the department of administration to draw its warrant in favor of the claimant and it shall charge the same to the appropriation made by s. 20.913 (3) (bm).

(2) **CENTRAL RECEPTION UNIT; EXCEPTION.** Notwithstanding sub. (1) and s. 302.13, an inmate account need not be opened or maintained for an inmate placed at the central reception unit at the Dodge correctional institution.

(3) **PROPERTY DELIVERED TO EMPLOYEE.** (a) All money or other property paid or delivered to a probation and parole agent or other employe of the department by or for the benefit of any person on probation or parole shall be immediately transmitted to the department and it shall enter the same upon its books to his or her credit. The property shall be used only under the direction of the department.

(b) If the person on probation or parole absconds, the money shall be credited to the revolving fund created by s. 304.075; and other property if not called for within one year shall be sold by the department and the proceeds shall be credited to the fund.

(c) If any person, within 5 years after such crediting of funds, satisfies the department that he or she is entitled thereto, the department shall certify the amount thereof to the department of administration for payment to the claimant from the appropriation made by s. 20.410 (1) (g).

History: 1989 a 31 ss. 980, 981, 2569; 1991 a 189, 315; 1993 a 16

This section does not create a property interest in items prohibited by administrative rule because these items have not been delivered to prison employes for the benefit of inmates. Prohibited items are contraband subject to seizure. *Escobar v. Landwehr*, 837 F Supp 284 (1993)

301.33 Freedom of worship; religious ministration.

(1) Subject to reasonable exercise of the privilege, members of the clergy of all religious faiths shall have an opportunity, at least once each week, to conduct religious services within the state correctional institutions. Attendance at the services is voluntary.

(2) Every inmate shall receive, upon request, religious ministration and sacraments according to the inmate's faith.

(3) Every inmate who requests it shall have the use of the Bible.

History: 1989 a 31.

The state must make copies of the Quran available to prisoners to the same extent that Bibles are made available. *Pitts v. Knowles*, 339 F Supp 1183

301.335 Treatment records. Section 51.30 applies to treatment records, as defined in s. 51.30 (1) (b), maintained by the department of corrections in regard to children adjudged delinquent. The department has the same authority, including rule-making authority, with regard to treatment records maintained by the department that is granted to the department of health and social services under s. 51.30.

History: 1989 a 31.

301.35 Law enforcement officer access to department records. (1) In this section:

(a) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(b) "Record" has the meaning given in s. 19.32 (2).

(2) The department shall allow a law enforcement officer access to a departmental record if the record pertains to any of the

following persons who resides or is planning to reside in the officer's territorial jurisdiction:

(a) A probationer

(b) A parolee.

(c) A prisoner confined under s. 301.046.

(d) A participant in the intensive sanctions program under s. 301.048.

History: 1993 a 98.

301.36 General supervision and inspection by department. (1) GENERAL AUTHORITY. The department shall investigate and supervise all of the state correctional institutions and all secure detention facilities and familiarize itself with all of the circumstances affecting their management and usefulness. The department may take enforcement action as to a secure detention facility or the juvenile portion of a county jail only after consultation with the department of health and social services.

(2) **PRISONS.** The department shall visit all places in which persons convicted or suspected of crime are confined, and ascertain their arrangement for the separation of the hardened criminals from juvenile offenders and persons suspected of crime or detained as witnesses; collect statistics concerning the inmates, their treatment, employment and reformation; and collect information of other facts and considerations affecting the increase or decrease of crime.

(3) **INSPECTIONS.** The department shall inquire into the methods of treatment, instruction, government and management of inmates of the institutions mentioned in this section; the conduct of their trustees, managers, directors, superintendents and other officers and employes; the condition of the buildings, grounds and all other property pertaining to the institutions, and all other matters pertaining to their usefulness and management; and recommend to the officers in charge such changes and additional provisions as it deems proper.

(4) **FREQUENCY OF INSPECTIONS.** The department shall inspect and investigate each institution at least annually and, when directed by the governor, it shall conduct a special investigation into an institution's management, or anything connected with its management, and report to the governor the testimony taken, the facts found and conclusions drawn.

(5) **ENFORCEMENT BY ATTORNEY GENERAL AND DISTRICT ATTORNEYS.** Upon request of the department, the attorney general or the district attorney serving the proper county shall aid in any investigation, inspection, hearing or trial had under this chapter, and shall institute and prosecute all necessary actions or proceedings for the enforcement of those provisions and for the punishment of violations of those provisions. The attorney general or district attorney so requested shall report or confer with the department regarding the request, within 30 days after receipt of the request.

(6) **OPPORTUNITY TO INSPECT.** All trustees, managers, directors, superintendents and other officers or employes of the institutions shall at all times afford to every member of the department and its agents, unrestrained facility for inspection of and free access to all parts of the buildings and grounds and to all books and papers of the institutions; and shall give, either verbally or in writing, such information as the department requires. Any person who violates this subsection shall forfeit not less than \$10 nor more than \$100.

(7) **TESTIMONIAL POWER; EXPENSES.** The director or any person delegated by the director may administer oaths, take testimony and cause depositions to be taken. All expenses of the investigations, including fees of officers and witnesses, shall be charged to the appropriation for the department.

(8) **STATISTICS TO BE FURNISHED.** Wherever the department is required to collect statistics, the person or agency shall furnish the required statistics on request.

History: 1989 a 31, 107.

301.37 CORRECTIONS

301.37 County buildings; establishment, approval, inspection. (1) The department shall fix reasonable standards and regulations for the design, construction, repair and maintenance of houses of correction, reforestation camps maintained under s. 303.07, jails as defined in s. 302.30, extensions of jails under s. 59.68 (7), rehabilitation facilities under s. 59.07 (76), lockup facilities as defined in s. 302.30, Huber facilities under s. 303.09 and, after consulting with the department of health and social services, secure detention facilities, with respect to their adequacy and fitness for the needs which they are to serve.

(2) The selection and purchase of the site, and the plans, specifications and erection of buildings, for the institutions is subject to the review and approval of the department. Department review shall include review of the proposed program to be carried out by the institution.

(3) Before any such building is occupied, and at least annually thereafter, the department shall inspect each institution with respect to safety, sanitation, adequacy and fitness, report to the

authorities conducting the institution any deficiency found and order the necessary work to correct it or a new building. If within 6 months thereafter the work is not commenced, or not completed within a reasonable period thereafter, to the satisfaction of the department, the department shall suspend the allowance of state aid for, and prohibit the use of, the building until the order is complied with.

(4) The department's standards and regulations under sub. (1) for county jails apply to tribal jails used under s. 302.445. At least annually, the department shall inspect each such tribal jail with respect to safety, sanitation, adequacy and fitness, report to the sheriff and the tribal jail authorities regarding any deficiency found and order the necessary work to correct it. If within 6 months thereafter the work is not commenced, or not completed within a reasonable period thereafter to the satisfaction of the department, the department shall prohibit the use of the tribal jail for purposes of s. 302.445 until the order is complied with.

History: 1989 a 31, 107; 1993 a 48