

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

*Joint Committee for
Review of
Administrative Rules
(JCR-AR)*

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤

➤ Clearinghouse Rules ... CRule

➤

➤ Committee Hearings ... CH

➤

➤ Committee Reports ... CR

➤

➤ Executive Sessions ... ES

➤ 97hr_JCR-AR_ES_pt10a

➤ Hearing Records ... HR

➤

➤ Miscellaneous ... Misc

➤

➤ Record of Comm. Proceedings ... RCP

➤

October 16, 1997
JCRAR Executive Session

STATEMENT OF SCOPE OF PROPOSED RULE

Subject:

DOC Code – Rule promulgation to establish policies, procedures, and standards for the sex offender community notification program and honesty testing of sex offenders program.

Description of Policy Issues:

Statement of the Objectives of the Rule:

The objective of the rule is to establish procedures for registering sex offenders in the Wisconsin Sex Offender Registry, storage of that information, and the dissemination of that information to law enforcement and the public. The rule will delineate the responsibilities of both the Department of Corrections and offenders to whom the law is applicable. The rule is intended to protect victims and the public by denying anonymity to sex offenders. This rule is designed to aid law enforcement in monitoring sex offenders in Wisconsin Communities.

In addition, the objective of the rule is to establish standards for the use of honesty testing devices in the supervision of sex offenders. Further, the objective of the rule is to provide for assessment of fees upon offenders to partially offset the costs of the program.

The alternatives to the proposed policy would result in not establishing procedures for the registration of sex offenders as required by statute.

The alternatives to the proposed policy would result in not establishing standards for the use of honesty testing devices in the supervision of sex offenders.

Statutory authority for the rule:

Sections 301.45, 301.46, 301.132, and 51.375

Estimate of the amount of time state employees will spend to develop the rule and of other resources necessary to develop the rule:

The Department estimates that it will take approximately 300 hours to develop the rule for both sex offender community notification and honesty testing of sex offenders, including drafting and complying with rulemaking requirements.

January 28, 1997

General Notices

Notice of Hearings

Department of Corrections
Notice is hereby given that pursuant to ss. 227.11(2)(a), 227.17, 301.45, and 301.46, Stats., the department of corrections proposes the following rule relating to registration of sex offenders and access to information concerning sex offenders. These hearing relate to both the proposed permanent rule and the emergency rule having effect and published on June 1, 1997.

Hearing Information
August 27, 1997
State Office Bldg.
141 N.W. Barstow St.
Wednesday
1:00 p.m. to 4:00 p.m.
Rm 120
Waukesha, WI
August 28, 1997
Wood Co. Courthouse
Public Auditorium
400 Market St.
Thursday
10:00 a.m. to 1:00 p.m.
Wisconsin Rapids, WI
August 29, 1997
GEF III Bldg.
125 S. Webster St.
Friday
9:00 a.m. to 12:00 p.m.
Rm. 041
Madison, WI

The public hearing sites are accessible to people with disabilities.

Analysis Prepared by the Department of Corrections

These rules are pursuant to recently enacted legislation, s. 301.45 and 301.46, Stats., relating to sex offender registration and access to information concerning sex offenders. These rules require that sex offenders register information with the sex offender registry at regular intervals, update information, and verify the accuracy of information. These rules specify the type of information that must be provided and the methods of registration, updating and verification. These rules identify how the department of corrections will maintain the sex offender registry and under what circumstances information in the registry can be expunged. These rules require supervising agencies to notify offenders of the registration requirement, but alert offenders that failure to receive notice is not a defense to any

(Seal)

Teresa L. Mason, being duly sworn, doth depose and say the he (she) is an authorized representative of The Wisconsin State Journal a newspaper, published at Madison, the seat of government of said State, and that an advertisement of which the annexed is a true copy, taken from said paper, was published therein on

August 17, 1997

(Signed) Teresa L. Mason

Principal Clerk

Subscribed and sworn to before me this 20th day of August 1997

Notary Public, Dane County, Wisconsin
My Commission expires 08-17-2001

Sex Offender Registration Program
ORDER
OF
DEPARTMENT OF CORRECTIONS
PROMULGATING EMERGENCY RULES

Under the authority vested in the Department of Corrections by ss. 227.11(2), 301.45(8), and 301.46(8), Stats., the Department of Corrections hereby creates DOC ch. 332, relating to registration and community notification of sex offenders.

Statutory authority: ss. 301.45 (8), 301.46 (8), and 227.11(2), Stats.
Statutes interpreted: ss. 301.45 (1) through (9), and 301.46 (1) through (9), Stats.

Adoption Procedure: This rule is adopted under the procedures authorized in ss. 227.16 (2) (c) and 227.24 (1) (a) and (4), Stats.

FINDING OF EMERGENCY

The Department of Corrections finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public safety. A statement of the facts constituting the emergency is: The legislature has directed the department to implement programs for sex offender registration and community notification by June 1, 1997. Emergency rules are necessary to implement the June 1, 1997, timeline mandated by the legislature, inform sex offenders of registration procedures, and inform law enforcement, victims and the public of the right to access information under the procedures designed by the department. Emergency rules are necessary to implement the June 1, 1997, timeline established by the legislature while permanent rules are developed and promulgated.

Analysis by the Department of Corrections

In accordance with the recently enacted statutory authority cited above the department of corrections proposes to comply with legislative directives by creating rules to implement sex offender registration and community notification programs.

This rule:

1. Creates definitions.
2. Requires offenders to register with the department of corrections sex offender registry.
3. Specifies the category of offenses that require registration.
4. Mandates the frequency with which offenders must register and update information.
5. Specifies the type of information that must be provided.
6. Permits the department to collect additional information necessary to provide for the public protection.

7. Provides for the expungement of information in the registry upon reversal of a conviction that prompted registration.
8. Specifies the methods of registration.
9. Requires supervising agencies to notify offenders of the registration requirement.
10. Requires the supervising agency to notify the local district attorney of an offenders failure to comply with registration requirements.
11. Permits law enforcement to have access to the registry information.
12. Provides that the department issue bulletins to law enforcement prior to the release of specific types of offenders.
13. Provides that the department allow access to specific registry information by community entities and victims of crimes.
14. Permits the department to allow access to specific registry information by the general public in the interest of public protection.
15. Prohibits the department from allowing access by community entities or the general public to information relating to a child who is required to register or to information regarding any juvenile adjudication.
16. Prohibits access to registry information by community entities, victims, or the general public after the period of time which the offender is required to register.
17. Permits the department to allow access to registry information by law enforcement for law enforcement purposes after the period of time the registration requirement has elapsed.

SECTION 1. DOC 332 is created to read:

DOC 332.01 APPLICABILITY. These rules interpret ss. 301.45 and 301.46, Stats.

DOC 332.02 DEFINITIONS. (1) "Agency with Jurisdiction" means the state agency with the authority or duty to confine or supervise a person or release or discharge a person from confinement.

(2) "Comparable Law" means a law of this state or another state that is similar in substance to an included offense.

(3) "Department" means the department of corrections.

(4) "Included Offense" means any of the following:

(a) The offense is one for which the person has either been convicted, adjudicated delinquent, or found in need of protection or services on or after December 25, 1993, for any violation, or the solicitation, conspiracy or attempt to commit any violation of ss. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11, or 948.30 Stats., or of ss. 940.30 or 940.31 Stats., if the victim was a minor and the person was not the victim's parent.

(b) The person is in prison, a secured correctional facility, as defined in ss. 938.02(15m) Stats., or a secured child caring institution, as defined in s. 938.02(15g) Stats., or on probation, parole, supervision or aftercare supervision on or after December 25, 1993, for any violation, for the solicitation, conspiracy or attempt to commit any violation, of any statute identified in par. (a), or for any violation, for the solicitation,

conspiracy or attempt to commit any violation of a law of this state that is comparable to any statute identified in par. (a).

(c) The person has been found not guilty or not responsible by reason of mental disease or defect on or after December 25, 1993, and committed under ss. 51.20 or 971.17 Stats., for any violation of any statute identified in par. (a).

(d) The person is in institutional care or on conditional transfer under s. 51.35(1) Stats., or conditional release under s. 971.17 Stats., on or after December 25, 1993, for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of any statute identified in par. (a), or for any violation, for the solicitation, conspiracy or attempt to commit a violation of a law of this state that is comparable to any statute identified in par. (a).

(e) The person is on parole or probation in this state from another state under ss. 304.13 or 304.135 Stats., on or after December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of the law of another state that is comparable to any statute identified in par. (a).

(f) The person is in institutional care under, or on parole from, a commitment for specialized treatment under ch. 975 Stats., on or after December 25, 1993.

(g) The person is in institutional care or on conditional release under ch. 980 Stats., on or after June 2, 1994.

(h) The person has been ordered by a court under ss. 51.20(13)(ct), 938.34(15m), 971.17(1m) (b) 2, or 973.048, Stats., to comply with the registration requirements under this section.

(5) "Residence" means any permanent or temporary dwelling where the offender is residing for a minimum of 2 weeks during a calendar year.

DOC 332.03 PERSONS REQUIRED TO REGISTER. Any person who has committed an act or violation which constitutes an included offense is subject to the registration requirements of this section.

DOC 332.04 MAINTENANCE OF REGISTRY. (1) The department shall maintain a registry of all persons subject to registration requirements.

(2) Persons subject to registration shall complete and sign a form provided by the department that requires the following information:

(a) The person's name including any aliases used by the person.

(b) The person's date of birth, gender, race, height, weight, eye and hair color.

(c) The included offense that subjects the person to registration requirements, the date of conviction, adjudication or commitment, and the county and state of conviction, adjudication or commitment.

(d) All of the following that are applicable:

1. The date the person was placed on probation, parole, supervision, conditional release, conditional transfer or supervised release.

2. The date the person was or is to be released from confinement, or discharged, or terminated from a sentence or commitment.

3. The date the person entered the state.

4. The date the person was ordered to comply with s. 301.45., Stats.

- (e) Any residence at which the person will be residing
 - (f) The name and telephone number of the supervising agency or office or unit.
 - (g) A description of all motor vehicles owned or registered to the person, which shall include the make, model, color and license number.
 - (h) The name and address of all the person's current or prospective employers and schools of enrollment.
 - (i) The date that any information required to be provided was changed or updated.
 - (j) Any other information that the department deems necessary to aid law enforcement or further the interests of public protection. This information shall only be made available to law enforcement.
- (3) The department shall expunge registry information concerning any person when the department receives all of the following:
- (a) A written request for expungement.
 - (b) A certified copy of a court order reversing, setting aside, or vacating all convictions, adjudication's, findings of need of protective services, or commitments that required registration compliance.
- (4) The department may request assistance of any county, circuit court, or the department of health and family services in obtaining registry information.

DOC 332.05 REGISTRATION TIMELINES. (1) When a person subject to registration is on supervision the supervising department or agency shall provide the information required under s. DOC 332.04(2), to the department of corrections in a manner and form provided by the department of corrections and in accordance with the following:

- (a) The information shall be provided within 10 days of the person being placed on probation, parole, supervision, aftercare supervision, conditional release or supervised release.
- (b) The information shall be provided within 10 days of the persons entrance to this state on probation or parole from another state.

(2) When sub. (1) does not apply and the person is subject to registration requirements the person shall provide the information in a manner and form provided by the department and in accordance with the following:

- (a) The information shall be provided no later than 10 days before being terminated or discharged from a commitment.
- (b) The information shall be provided no later than 10 days prior to being released from confinement upon maximum discharge from a sentence or commitment.

(3) If sub. (1) or (2) do not apply, the information shall be provided within 10 days after the person is sentenced or receives a disposition.

DOC 332.06 REGISTRATION FREQUENCY, DURATION, VERIFICATION, AND UPDATING. (1) Persons subject to registration shall provide required information in accordance with the following:

- (a) Unless par. (b) or (c) applies, persons who have met any prerequisite that subjects the person to registration shall register, in a form and manner provided by the department, every 12 months until 15 years have elapsed since discharge from probation, parole, sentence or commitment.

(b) Persons who have on two or more separate occasions been convicted or found not guilty or not responsible by reason of mental disease or defect for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of ss. 940.22(2), 940.225(1), (2) or (3), 944.06, 948.02(1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or 948.30, Stats., or of ss. 940.30 or 948.31, Stats., if the victim was a minor and the person was not the victim's parent, or for the violation, or for the solicitation, conspiracy or attempt to commit any violation of a law of this state or any other state that is comparable to any statutory provision cited in this paragraph shall register in a form and manner provided by the department every 12 months until his or her death. A conviction that has been reversed, set aside or vacated is not a conviction for purposes of determining under this paragraph whether a person has been convicted on 2 or more separate occasions.

(c) Any person determined to be a sexually violent person under ch. 980 Stats., shall register in a form and manner provided by the department every 90 days until his or her death.

(2) Unless sub. (3) applies, persons subject to registration shall provide updated information within 10 days of any change in residence, school, employment or vehicle registration.

(3) A person who is subject to registration and who is moving from this state to another state must comply with the following:

(a) Provide the department with the change in residence information no later than 10 days prior to moving.

(b) Register and comply with any sex offender registry program requirements of the receiving state.

(4) Persons subject to registration who receive any notice from the department requesting verification of registry information shall verify the accuracy of registry information and provide any updated information within 10 days of the receipt of the notice by signing and returning a confirmation receipt to the department.

(5) The supervising department or if the person is not supervised the department of corrections shall notify persons subject to registration of the registration requirements in accordance with the following:

(a) Persons required to register every 90 days shall be notified every 90 days.

(b) Persons subject to annual registration requirements shall be notified annually until the obligation expires.

(6) Failure to receive notice of registration requirements under sub.(5) is not a defense to liability under s. 301.45(6), Stats.

(7) In addition to penalties provided in s. 301.45(6), Stats., failure to comply with registration requirements, including but not limited to signing the registration form, verifying information, updating information, or providing true and accurate information when the person is on probation, parole, supervised release, conditional discharge, or aftercare supervision is a violation of that supervision.

(8) The department shall notify the District Attorney in the county where the offender resides of any intentional non-compliance with the obligation to register, update registry information or verify registry information.

DOC 332.07 ACCESS TO REGISTRY BY LAW ENFORCEMENT. (1) The department shall allow access to registry information to law enforcement agencies in accordance with the following:

(a) The department shall allow the police chief and sheriff of any community or county in which a person subject to registration resides, is employed, or is enrolled in a school program to access all of the registrant's information identified in s. DOC 332.04(2)(a), through (i).

(b) The department may grant a police chief or sheriff access to information concerning any person registered under s. DOC 332.04.

(2) In addition to the information provided to law enforcement agencies under sub. (1) the department may provide law enforcement with any other information concerning persons subject to registration.

DOC 332.08 BULLETINS TO LAW ENFORCEMENT. (1) The department shall provide bulletins to law enforcement agencies in accordance with the following:

(a) If an agency with jurisdiction confines a person under the community residential confinement program, provides a person entering the intensive sanction program with a sanction other than a type 1 prison, or releases a person from confinement or institutional care, and the person has, on one occasion only, been convicted or found not guilty or not responsible by reason of mental disease or defect for any violation, or for the solicitation, conspiracy or attempt to commit any violation, of ss. 940.22(2), 940.225(1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.11 or s. 948.30, Stats., or of ss. 940.30 or 940.31, Stats., if the victim was a minor and the person was not the victims parent, or a law of this state that is comparable to a statutory provision identified in this paragraph, the agency with jurisdiction may notify the police chief and sheriff where the person resides, is employed or is enrolled in a school program if the agency determines that notification is necessary to protect the public.

(b) If an agency with jurisdiction confines a person under the community residential confinement program, provides a person entering the intensive sanctions program with a sanction other than a type 1 prison, or releases a person from confinement or institutional care; and the person has been found to be a sexually violent person under ch. 980 Stats., or has on two or more separate occasions been convicted of or found not guilty or not responsible by reason of mental disease or defect for any violation, or for the solicitation, conspiracy or attempt to commit any violation of any statutory provision identified in par. (a), the agency with jurisdiction shall notify the police chief and the sheriff where the person resides, is employed or enrolled in a school program.

(2) The notification provided under this section shall be in the form of a written bulletin that provides all the applicable information identified at s. DOC 332.04(2).

DOC 332.09 NOTIFICATION OF VICTIMS. (1) In this subsection:

(a) "Member of the family" means spouse, child, parent, sibling or legal guardian.

(b) "Victim" means a person against whom an included offense has been committed.

(2) Victims and any member of the victim's family may request, in a form and manner provided by the department, access to information and written notifications when an offender registers or updates information.

(3) The department shall provide notice to victims and family members who have requested notification under sub. (2) which shall include:

- (a) The person's name including any aliases.
- (b) The person's address.
- (c) The name and telephone number of the supervising agency.
- (d) All motor vehicle information concerning the person.
- (e) Any updated information including the date the information was last updated.

(4) In addition to information provided under sub. (3) the victim or family member may request that the department provide him or her with other information concerning the person that is specified at s. DOC 332.04(2)(a) through (i).

DOC 332.10 ACCESS TO REGISTRY BY COMMUNITY ENTITIES. (1) Community entities may request, in a form and manner provided by the department, information concerning any person subject to registration who resides, is employed or attends school within the general geographic area of the community entity.

(2) Community entities that may request information under sub. (1) are as follows:

(a) A public or private elementary or secondary school; a s. 48.651, Stats., licensed group home; a s. 48.48, Stats., licensed shelter care facility; a s. 48.62, Stats., foster home or treatment foster home; a ss. 46.21, 46.215, 46.22, 46.23, 51.42, or 51.437, Stats., county department; a s. 48.57, Stats., child welfare agency or a s. 104.01(6), Stats., sheltered workshop personnel office.

(b) The departments of justice, health and family service or public instruction.

(c) An organized unit of the Boy Scouts of America, the Boy's Clubs of America, the Girl Scouts of America or the Camp Fire Girls.

(d) A day care provider that holds a license under s. 48.65, Stats., is certified under s. 48.651, Stats., holds a s. 48.69, Stats., probationary license, or is contracted for or established under s. 120.13(14), Stats.

(e) A neighborhood watch program authorized under s. 60.23(17m), Stats., or by the law enforcement agency of a city or village.

(f) Any other community-based public or private, nonprofit organization that the department determines should have access to registry information in the interest of public protection.

(3) In response to a request under sub. (1) the department shall provide all of the following:

- (a) The name and aliases of any person required to register.
- (b) The date and county of conviction.
- (c) All motor vehicle information concerning the person.
- (d) The last date on which the registry information was updated.

(4) The department shall not provide any of the following information in response to a request under sub. (1):

- (a) Any information regarding a child who is subject to registration requirements.

(b) If the person registered is an adult, any information concerning a juvenile proceeding in which the person was involved.

(5) Subject to sub. (4), a community entity under sub. (2)(e) may request, in a form and manner provided by the department, the names of and information specified at sub. (3) concerning all persons registered who reside, are employed or attend school within the general geographic area of the entity.

DOC 332.11 ACCESS TO REGISTRY BY GENERAL PUBLIC. (1) The department may in the interest of public protection provide information to a person not provided access to registry information under other sections when the person requests information, in a form and manner provided by the department, and when the person does all of the following:

- (a) Submits a request in a form and manner provided by the department.
- (b) Specifies by name the person about whom information is requested and;
- (c) Provides any other information deemed necessary by the department to identify the person registered under s. DOC 332.04.

(2) When the department grants access to information in response to a request under sub. (1) all of the following information shall be provided:

(a) The state, county and date of the person's last conviction or commitment that required registration compliance.

(b) All motor vehicle information concerning the person.

(c) The date the information was last updated.

(3) The department shall not provide any of the following information in response to a request under sub. (1):

(a) Any information concerning a child who is required to register.

(b) If the person registered is an adult, any information concerning a juvenile proceeding in which the person was involved.

DOC 332.12 MISUSE OF REGISTRY INFORMATION. Persons who commit crimes using information that is disclosed under the provisions of this chapter are subject to the penalty provided for the crime committed and any increased penalty provided under s. 939.646, Stats.

DOC 332.13 PERIOD OF ACCESS TO REGISTRY. (1) Except as provided in sub. (2) the department shall provide access to registry information only during the period of time in which the person is required to register.

(2) The department may provide registry access to law enforcement agencies regardless of whether the person is still subject to registration requirements.

DOC 332.14 OPEN RECORDS REQUESTS. Open records requests under s. 19.35, Stats., directed to department records other than the sex offender registry are not effected by the provisions of this chapter.

FISCAL ESTIMATE

A copy of the fiscal estimate is attached.

EFFECTIVE DATE

The rule shall take effect upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

Dated: _____ Agency: _____
MICHAEL J. SULLIVAN, Secretary
Department of Corrections

FISCAL ESTIMATE

DOA-2048 N(R10/94)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Relating to Implementation of Sex Offender Registration and Community Notification

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The creation of Adm. Rule DOC 332 relates to registration and community notification.

The Legislature directed the Department of Corrections to implement a sex offender registry, notify sex offenders of registration procedures, and inform law enforcement, victims and the public of the right to access information. The Department is required to implement these programs by June 1, 1997.

This Administrative Rule should not have a Departmental fiscal effect separate from the statutory effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
 Department of Corrections
 C. Halpin 267-0934

Authorized Signature/Telephone No.
Robert Margolies
 Robert Margolies/266-2931

Date
 May 22, 1997

Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary



Mailing Address
149 East Wilson Street
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 266-2471

State of Wisconsin
Department of Corrections

May 30, 1997


Bruce Munson, Revisor
Revisor of Statutes Bureau
131 West Wilson Street, Room 800
Madison, Wisconsin 53703-3222

Dear Mr. Munson:

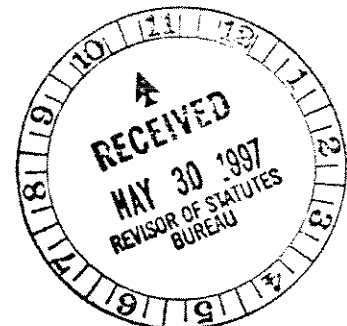
Pursuant to s. 227.20 Stats., the Department of Corrections submits a certified and uncertified copy of emergency rule DOC 304, relating to secure work groups.

If you have any questions, please call Deborah Rychlowski at (608) 266-8426.

Sincerely,


Michael J. Sullivan
Secretary

Enclosures



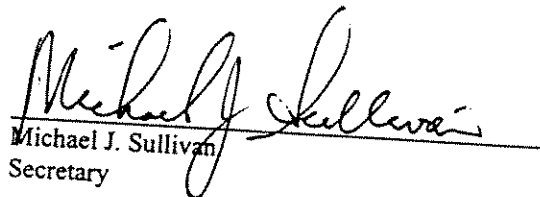
STATE OF WISCONSIN)
) SS
DEPARTMENT OF CORRECTIONS)

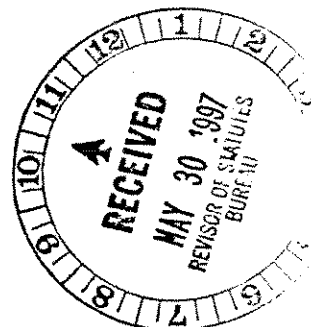
I, Michael J. Sullivan, Secretary, Department of Corrections, and custodian of the official records, certify that the annexed emergency rules, relating to inmate secure work groups, were duly approved and adopted by the Department on May 30, 1997.

I further certify that this copy has been compared by me with the original on file in this Department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed the official seal of the
Department of Corrections
149 E. Wilson Street in the City of
Madison, this 30th day of May, 1997.

SEAL


Michael J. Sullivan
Secretary



ORDER OF THE
DEPARTMENT OF CORRECTIONS
ADOPTING RULES

FINDING OF EMERGENCY

The Department of Corrections finds an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Effective June 1, 1997, appropriations will be made available to the Department of Corrections for the establishment of secure work groups. Section 303.063 (2), Stats. requires that if the Department establishes a secure work program, the Department shall, before implementing the program, promulgate rules specifying the procedures and regulations relating to the program. The Department has just begun the permanent rule process for establishing the administrative rules for the secure work program. It typically takes nine months for a permanent administrative rule to be promulgated from the time the permanent rule making process begins.

The Department needs to adopt administrative rules regarding the organization and operation of the secure work group program in order to have rules in place which will comply with Sec. 303.063 (2), Stats. The rules will provide for the protection of the public, the correctional officers and the inmates by providing the requirements for participation in the program as well as providing for safety and security concerns.

An emergency currently exists as the prison population is idle and needs secure work groups to provide inmates work opportunities, to prepare inmates for work opportunities upon release to the community, and to reintegrate inmates into the community.

Analysis Prepared by the Department of Corrections

Sec. 303.063 (1), Stats. authorizes the Department of Corrections to establish a secure work program for inmates in which the inmates are assigned to work away from the grounds of the institution while appropriately restrained for security purposes.

Sec. 303.063 (2), Stats. requires that the Department of Corrections must promulgate rules specifying the procedures and regulations relating to the secure work program under (1) before it may implement such a program.

The emergency rule:

1. Provides that an inmate shall have a security classification of medium, minimum, or minimum community residential confinement in order to be eligible to participate in the secure work program.

2. Provides that intensive sanctions inmates who are sanctioned back to prison and probationers and parolees who are being held in custody as an alternative to revocation may be eligible to participate in the secure work program.
3. Provides that inmates otherwise meeting the requirements of DOC 304.04 may be assigned to the secure work program as a disciplinary disposition under s. DOC 303.
4. Provides that the warden of the correctional facility to which the inmate is assigned or the warden's designee shall review the proposed assignment of the inmate to a secure work program, and that an inmate shall be allowed to participate in a secure work program only after the warden or the warden's designee approves the inmate's assignment.
5. Provides that a secure work crew may consist of a maximum of 12 inmates.
6. Provides that an inmate may be on any one secure work program assignment for a maximum of 60 work days.
7. Provides that inmates participating in a secure work program assignment shall be restrained by individual chain leg restraints and may be required to wear electronic stun belts or utilize other security technology during the time they are outside the perimeter of the institution.
8. Provides that each work crew shall be supervised by at least 2 correctional officers, and that at least one of those officers shall be armed.
9. Provides that inmates in the secure work program may be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned, and that work assignments may include roadside cleaning, snow removal, and construction projects.
10. Requires that inmates who are participating in secure work program assignments wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution.
11. Provides that inmates who are assigned to secure work crews, who are not in disciplinary status, shall be paid at pay ranges 1 through 3, depending upon work assignment and performance.

ORDER

Pursuant to the authority vested in the Department of Corrections by ss. 301.02, 301.03 (2), 303.063 and 227.11 (2), Stats., the Department of Corrections hereby creates rules providing for the purpose, applicability, organization, and operation for the secure work group program. The rules also provide definitions, inmate eligibility requirements, inmate secure work group pay, and for review of inmate work program assignments.

SECTION 1. DOC 304 is created to read:

DOC 304.01 PURPOSE. The purposes of the secure work program are:

- (1) To provide inmates work opportunities while the inmates are appropriately restrained for security purposes.
- (2) To provide inmates opportunities to assume responsibility in work settings to prepare them for employment upon release to the community.
- (3) To fulfill the goals of public protection and reintegration of the inmate into the community.
- (4) To provide service to the community.

DOC 304.02 APPLICABILITY. This chapter applies to the Wisconsin Department of Corrections and adult inmates in its custody. It interprets s. 303.063, Stats. This chapter is adopted pursuant to the authority of s. 303.063 (2), Stats.

DOC 304.03 ORGANIZATION OF THE SECURE WORK PROGRAM. (1) Inmates shall be eligible to participate in the secure work program if they meet the requirements under s. DOC 304.04.

- (2) The warden of the correctional facility to which the inmate is assigned or the warden's designee shall review the proposed assignment of the inmate to a secure work program. An inmate shall be allowed to participate in a secure work program only after the warden or the warden's designee approves the inmate's assignment.
- (3) A secure work crew may consist of a maximum of 12 inmates.
- (4) An inmate may be assigned to any one secure work crew assignment for a maximum of 60 work days.
- (5) Inmates participating in a secure work program assignment shall be restrained by individual chain leg restraints and may be required to wear electronic stun belts or utilize other security technology during the time they are outside the secure perimeter of the institution.
- (6) Each work crew shall be supervised by at least 2 correctional officers, and at least one of those correctional officers shall be armed.

DOC 304.04 ELIGIBILITY FOR SECURE WORK PROGRAM ASSIGNMENT. (1) An inmate shall have a security classification of medium, minimum, or minimum community residential confinement as defined in s. DOC 302.12 in order to be eligible to participate in the secure work program.

- (2) Intensive sanctions inmates who are sanctioned back to prison and probationers and parolees who are being held in custody as an alternative to revocation may be eligible to participate in the secure work program.

(3) Inmates who otherwise meet the eligibility requirements of this section may be assigned to the secure work program as a disciplinary disposition under s. DOC 303.

DOC 304.05 SECURE WORK PROGRAM OPERATION. (1) An inmate participating in a secure work program assignment may be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned.

(2) Work assignments may include, but are not limited to, roadside cleaning, snow removal, construction projects and community service projects.

(3) Inmates who are participating in secure work program assignments shall be required to wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution.

DOC 304.06 INMATE SECURE WORK CREW PAY. Inmates assigned to secure work programs, who are not in disciplinary status, shall be paid at pay ranges 1 through 3 depending upon work assignment and performance.

This rule shall take effect on May 30, 1997 as an emergency rule.

WISCONSIN DEPARTMENT OF CORRECTIONS

Dated:

5/23/79

By:

Michael J. Sullivan
Michael J. Sullivan
Secretary

Seal:

PROPOSED ORDER OF THE
DEPARTMENT OF CORRECTIONS
CREATING RULES

The Wisconsin department of corrections proposes an order to create DOC 304, relating to the inmate secure work program.

Statutory authority: ss. 303.063, 227.11 (2)

Statutes interpreted: s. 303.063, Stats.

Analysis Prepared by the Department of Corrections

Sec. 303.063 (1), Stats. authorizes the Department of Corrections to establish a secure work program for inmates in which the inmates are assigned to work away from the grounds of the institution while appropriately restrained for security purposes.

Sec. 303.063 (2), Stats. requires that the Department of Corrections must promulgate rules specifying the procedures and regulations relating to the secure work program under (1) before it may implement such a program.

The proposed rule:

1. Provides that an inmate shall have a security classification of medium, minimum, or minimum community residential confinement in order to be eligible to participate in the secure work program.
2. Provides that intensive sanctions inmates who are sanctioned back to prison and probationers and parolees who are being held in custody as an alternative to revocation may be eligible to participate in the secure work program.
3. Provides that inmates otherwise meeting the requirements of DOC 304.04 may be assigned to the secure work program as a disciplinary disposition under s. DOC 303.72 (9).
4. Provides that the warden of the correctional facility to which the inmate is assigned or the warden's designee shall review the proposed assignment of the inmate to a secure work program, and that an inmate shall be allowed to participate in a secure work program only after the warden or the warden's designee approves the inmate's assignment.
5. Provides that a secure work crew may consist of a maximum of 12 inmates.
6. Provides that an inmate may be on any one secure work program assignment for a maximum of 60 work days and that an inmate may be assigned to several secure work program assignments during the course of the inmate's incarceration..

7. Provides that inmates participating in a secure work program assignment shall be restrained by individual chain leg restraints and may be required to wear electronic stun belts or utilize other security technology during the time they are outside the perimeter of the institution.

8. Provides that each work crew shall be supervised by at least 2 correctional officers, and that at least one of those officers shall be armed.

9. Provides that inmates in the secure work program may be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned, and that work assignments may include roadside cleaning, snow removal, and construction projects.

10. Requires that inmates who are participating in secure work program assignments wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution and that this outerwear shall be the outermost layer of clothing and that the outerwear shall be labeled "DOC inmate."

11. Provides that inmates who are assigned to secure work crews, who are not in disciplinary status, shall be paid compensated at an hourly rate unless serving a disciplinary sanction.

DOC 304.01 PURPOSE. The purposes of the secure work program are:

- (1) To provide inmates work opportunities while the inmates are appropriately restrained for security purposes.
- (2) To provide inmates opportunities to assume responsibility in work settings to prepare them for employment upon release to the community.
- (3) To fulfill the goals of public protection and reintegration of the inmate into the community.
- (4) To provide service to the community.

DOC 304.02 APPLICABILITY. This chapter applies to the Wisconsin department of corrections and adult inmates in its custody. It interprets s. 303.063, Stats. This chapter is adopted pursuant to the authority of s. 303.063 (2), Stats.

DOC 304.03 ORGANIZATION OF THE SECURE WORK PROGRAM. (1) An inmate is eligible to participate in a secure work program if the inmate meets the requirements under s. DOC 304.04.

(2) The warden of the correctional facility to which an eligible inmate is assigned or the warden's designee shall review the proposed assignment of the inmate to a secure work program. An inmate may participate in a secure work program only after the warden or the warden's designee approves the

inmate's assignment.

- (3) A secure work crew may consist of a maximum of 12 inmates.
- (4) An inmate may be assigned to any one secure work crew assignment for a maximum of 60 work days. An inmate may be placed on several secure work crew programs during the course of the inmate's incarceration.
- (5) Inmates participating in a secure work program assignment shall be restrained by individual chain leg restraints and may be required to wear electronic stun belts or utilize other security technology during the time they are outside the secure perimeter of the institution.
- (6) Each work crew shall be supervised by at least 2 correctional officers, and at least one of those correctional officers shall be armed.

DOC 304.04 ELIGIBILITY FOR SECURE WORK PROGRAM ASSIGNMENT. (1) An inmate is eligible to participate in the secure work program if any of the following apply:

(a) The inmate has a security classification of medium security, medium outside security with supervision, minimum security or minimum security-community residential confinement under s. DOC 302.12 (1) (c) to (f).

(b) The inmate is an intensive sanction inmate who has been sanctioned back to prison or is a probationer or parolee who is being held in custody as an alternative to revocation.

(2) Inmates who otherwise meet the eligibility requirements of this section may be assigned to the secure work program as a disciplinary disposition under s. DOC 303.72 (9).

DOC 304.05 SECURE WORK PROGRAM OPERATION. (1) An inmate participating in a secure work program assignment may be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned.

(2) Work assignments may include roadside cleaning, snow removal, construction projects and community service projects.

(3) Inmates who are participating in secure work program assignments shall wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution. Inmates shall be outfitted in distinctively colored garments to be worn as the outermost layer of clothing and the garments shall be labeled "DOC inmate."

DOC 304.06 INMATE SECURE WORK CREW PAY. Inmates assigned to secure work programs shall be compensated at an hourly rate unless serving a disciplinary sanction.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Corrections

Dated: _____

By: _____
Michael J. Sullivan
Secretary

Seal:

Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary



Mailing Address
149 East Wilson Street
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 266-2471

State of Wisconsin Department of Corrections

May 30, 1997

Mr. Bruce E. Munson, Revisor
Revisor of Statutes Bureau
Suite 800
131 West Wilson Street
Madison, WI 53703-3233

Dear Mr. Munson:

Pursuant to sec. 227.135, Stats., the Department of Corrections submits the enclosed statement of scope of a proposed administrative rule relating to secure work programs for inmates. The proposed rule has been promulgated as an emergency rule. Enclosed is a copy of the Order of the Department of Corrections adopting the emergency rule.

If you have any questions, please call Deborah Rychlowski at (608) 266-8426.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan".

Michael J. Sullivan
Secretary

cc: Mark Bugher

Enclosures



STATEMENT OF SCOPE OF PROPOSED RULE

SUBJECT:

Administrative Code - Secure Work Crews

STATEMENT OF THE OBJECTIVE OF THE PROPOSED RULE:

It is anticipated that the proposed administrative rule will make permanent an emergency rule which states the purpose, applicability, organization, and operation of secure work programs for inmates. The rule will also provide definitions, eligibility requirements for inmates to participate in the program, the rate of inmate pay, and also provide a review of the inmate's work program assignment.

STATEMENT OF THE EXISTING RELEVANT POLICIES AND NEW POLICIES PROPOSED AND ANALYSIS OF POLICY ALTERNATIVES:

The existing relevant policies are contained in an emergency rule which is in effect for secure work crews for inmates. It is anticipated that the proposed permanent rule will be identical or similar to the emergency rule. It is anticipated that the policies will not change, but that the emergency rule will be made into a permanent rule.

The policies of the organization of the secure work program include the requirement that the inmate's participation in the secure work program be approved by the warden of the correctional facility to which the inmate is assigned. The policies also provide that an individual work crew may consist of a maximum of 12 inmates, that the work crew members shall be restrained by individual chain leg restraints, and that the inmates may be required to wear electronic stun belts or utilize other security technology. The secure work crew shall be supervised by two correctional officers, and at least one correctional officer shall be armed. The Department determined that the safety of the public, the inmates, and the security officers could only be maintained with these security measures. The warden approves the inmates selected to the program so that inmates who would pose a great risk to the public would not be allowed to participate in the secure work program. The Department determined that each work crew should be limited to 12 inmates for security and safety concerns. The Department determined that the leg restraints would be necessary to prevent inmates from escaping and from harming members of the public, correctional officers, themselves, or other inmates. Inmates may be required to wear electronic stun belts or other security technology if the Department determines that it is necessary for security reasons. Also, at least one of the correctional officers supervising the work crew shall be armed. This requirement is also intended to protect the public by reducing the risk of an escape.

The proposed permanent rule would require an inmate to have a security classification of medium, minimum or minimum security- community residential confinement in order to be eligible for a secure work program assignment. The proposed permanent rule will allow inmates in the intensive sanctions program who are sanctioned back to prison, and probationers and parolees being held in custody as an

alternative to revocation, to be eligible for a secure work program assignment. The proposed permanent rule also would allow inmates to be assigned to the secure work program as a disciplinary disposition if the inmate otherwise is eligible for participation in the program. The Department determined that it would be preferable to allow as broad as inmate population as possible to participate in the secure work program without compromising security and safety concerns.

The proposed permanent rule would provide that inmates would be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned and that the work assignments would include roadside cleaning, snow removal, construction projects and community service projects. The Department determined that these activities are commensurate with the abilities of most inmates, would provide work opportunities for the inmates and would provide service to the community. Sec. 303.063 (2), Stats., states that the Department's rules shall require that the inmates who are on work assignments under this program must wear distinctively colored outergarments. The proposed permanent rule complies with this statutory requirement.

STATEMENT OF THE AUTHORITY FOR THE RULE:

Sections 301.02, 301.03, and 303.063, Stats.

STAFF TIME AND ADMINISTRATIVE COSTS TO DEVELOP THE RULE:

It is anticipated that the permanent rule will be identical or at least similar to the emergency rule. The emergency rule will be used as the basis for the permanent rule. There may be some changes made based on the legislative council report or based upon public comments. It is anticipated 10 hours of staff time may be necessary to develop the permanent administrative rule.

May 30, 1997

Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary



Mailing Address
149 East Wilson Street
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 266-2471

State of Wisconsin Department of Corrections

July 25, 1997

Mr. Gary L. Poulson
Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Room 800
Madison, WI 53703-3233

Re: CR 97-095
Proposed Rule Relating to Secure Work Programs for Inmates

Dear Mr. Poulson:

Pursuant to s. 227.17 Stats., please find enclosed the Notice of Hearing for CR 97-095, the proposed rules relating to leave for qualified inmates. Also enclosed is a 3.5" double-density disk containing a copy of the notice.

I approve the attached notice of hearing.

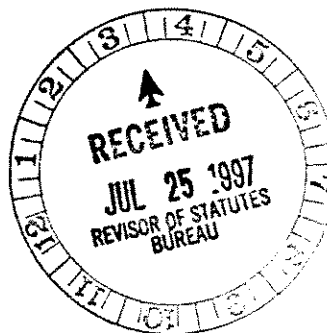
If you have questions, please contact Deborah Rychlowski at (608) 266-8426.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan".

Michael J. Sullivan
Secretary

cc: Richard G. Chandler
State Budget Director



NOTICE OF HEARING

DEPARTMENT OF CORRECTIONS

(Inmate Secure Work Programs - DOC 304)

NOTICE IS HEREBY GIVEN That pursuant to ss. 227.11 (2) (a), and 303.065, Stats., the department of corrections proposes the following rule relating to inmate secure work programs.

Hearing Information

<u>Date & Time</u>	<u>Location</u>
August 25, 1997 Monday 10:00 A.M. to Noon	Room 223 State Office Building 141 Northwest Barstow Street Waukesha, Wisconsin
August 28, 1997 Thursday 1:00 P.M. to 3:00 P.M.	Room 105 State Office Building 718 West Clairemont Eau Claire, Wisconsin
August 29, 1997 Friday 2:00 P.M. to 3:00 P.M.	Secretary's Conference Room Department of Corrections 149 E. Wilson Street, 3rd Floor Madison, Wisconsin

The public hearing sites are accessible to people with disabilities.

Analysis Prepared by the Department of Corrections

Sec. 303.063 (1), Stats. authorizes the Department of Corrections to establish a secure work program for inmates in which the inmates are assigned to work away from the grounds of the institution while appropriately restrained for security purposes.

Sec. 303.063 (2), Stats. requires that the Department of Corrections must promulgate rules specifying the procedures and regulations relating to the secure work program under (1) before it may implement such a program.

The proposed rule:

1. Provides that an inmate shall have a security classification of medium, minimum, or minimum community residential confinement in order to be eligible to participate in the secure work program.
2. Provides that intensive sanctions inmates who are sanctioned back to prison and probationers and parolees who are being held in custody as an alternative to revocation may be eligible to participate in the secure work program.
3. Provides that inmates otherwise meeting the requirements of DOC 304.04 may be assigned to the secure work program as a disciplinary disposition under s. DOC 303.72 (9).
4. Provides that the warden of the correctional facility to which the inmate is assigned or the warden's designee shall review the proposed assignment of the inmate to a secure work program, and that an inmate shall be allowed to participate in a secure work program only after the warden or the warden's designee approves the inmate's assignment.
5. Provides that a secure work crew may consist of a maximum of 12 inmates.
6. Provides that an inmate may be on any one secure work program assignment for a maximum of 60 work days and that an inmate may be assigned to several secure work program assignments during the course of the inmate's incarceration..
7. Provides that inmates participating in a secure work program assignment shall be restrained by individual chain leg restraints and may be required to wear electronic stun belts or utilize other security technology during the time they are outside the perimeter of the institution.
8. Provides that each work crew shall be supervised by at least 2 correctional officers, and that at least one of those officers shall be armed.
9. Provides that inmates in the secure work program may be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned, and that work

assignments may include roadside cleaning, snow removal, and construction projects.

10. Requires that inmates who are participating in secure work program assignments wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution and that this outergarment shall be the outermost layer of clothing and that the outergarment shall be labeled "DOC inmate."

11. Provides that inmates who are assigned to secure work crews, who are not in disciplinary status, shall be paid compensated at an hourly rate unless serving a disciplinary sanction.

DOC 304.01 PURPOSE. The purposes of the secure work program are:

- (1) To provide inmates work opportunities while the inmates are appropriately restrained for security purposes.
- (2) To provide inmates opportunities to assume responsibility in work settings to prepare them for employment upon release to the community.
- (3) To fulfill the goals of public protection and reintegration of the inmate into the community.
- (4) To provide service to the community.

DOC 304.02 APPLICABILITY. This chapter applies to the Wisconsin department of corrections and adult inmates in its custody. It interprets s. 303.063, Stats. This chapter is adopted pursuant to the authority of s. 303.063 (2), Stats.

DOC 304.03 ORGANIZATION OF THE SECURE WORK PROGRAM. (1) An inmate is eligible to participate in a secure work program if the inmate meets the requirements under s. DOC 304.04.

(2) The warden of the correctional facility to which an eligible inmate is assigned or the warden's designee shall review the proposed assignment of the inmate to a secure work program. An

inmate may participate in a secure work program only after the warden or the warden's designee approves the inmate's assignment.

(3) A secure work crew may consist of a maximum of 12 inmates.

(4) An inmate may be assigned to any one secure work crew assignment for a maximum of 60 work days. An inmate may be placed on several secure work crew programs during the course of the inmates incarceration.

(5) Inmates participating in a secure work program assignment shall be restrained by individual chain leg restraints and may be required to wear electronic stun belts or utilize other security technology during the time they are outside the secure perimeter of the institution.

(6) Each work crew shall be supervised by at least 2 correctional officers, and at least one of those correctional officers shall be armed.

DOC 304.04 ELIGIBILITY FOR SECURE WORK PROGRAM ASSIGNMENT. (1) An inmate is eligible to participate in the secure work program if any of the following apply:

(a) The inmate has a security classification of medium security, medium outside security with supervision, minimum security or minimum security-community residential confinement under s. DOC 302.12 (1) (c) to (f).

(b) The inmate is an intensive sanction inmate who has been sanctioned back to prison or is a probationer or parolee who is being held in custody as an alternative to revocation.

(2) Inmates who otherwise meet the eligibility requirements of this section may be assigned to the secure work program as a disciplinary disposition under s. DOC 303.72 (9).

DOC 304.05 SECURE WORK PROGRAM OPERATION. (1) An inmate participating in a secure work program assignment may be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned.

(2) Work assignments may include roadside cleaning, snow removal, construction projects and community service projects.

(3) Inmates who are participating in secure work program assignments shall wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution. Inmates shall be outfitted in distinctively colored garments to be worn as the outermost layer of clothing and the garments shall be labeled "DOC inmate."

DOC 304.06 INMATE SECURE WORK CREW PAY. Inmates assigned to secure work programs shall be compensated at an hourly rate unless serving a disciplinary sanction.

Initial Regulatory Flexibility Analysis:

These rules are not expected to have an effect on small businesses.

Fiscal Estimate

This administrative rule relates to the development and organization of a secure work program for the department in which inmates are assigned to work away from the grounds of the institution while appropriately restrained for security purposes.

The rule sets standards of eligibility for participation, duties of inmates who are assigned to the program, and security supervision requirements.

There will be some additional administrative workload for the institutions who have secure work crew programs. It is believed that these costs can be absorbed by the department.

Contact Person

Deborah Rychlowski (608) 266-8426
Office of Legal Counsel
149 E. Wilson Street
P.O. Box 7925
Madison, Wisconsin 53707-7925

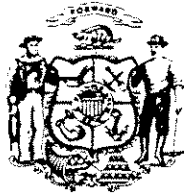
If you are hearing or visually impaired, do not speak English, or have circumstances which might make communication at the hearing difficult and if you, therefore, require an interpreter or a non-English, large print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written Comments

Written comments on the proposed rules received at the above address no later than September 5, 1997, will be given the same consideration as testimony presented at the hearing.

Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary



Mailing Address
149 East Wilson Street
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 266-2471

State of Wisconsin Department of Corrections

June 26, 1997

JUN 26 1997

Ronald Sklansky, Director
Administrative Rules Clearinghouse
One East Main Street, Suite 401
P.O. Box 2536
Madison, WI 53701-2536

Dear Mr. Sklansky:

Pursuant to s. 227.15 (1), Stats., the Department of Corrections submits proposed administrative rule DOC 304, related to secure work crews, for your review.

If you have any questions regarding proposed DOC 304, please contact Deborah Rychlowski at 266-8426.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan".

Michael J. Sullivan,
Secretary

Enclosure

PROPOSED RULES OF THE
DEPARTMENT OF CORRECTIONS

DOC 304 Wis. Adm. Code

Subject: SECURE WORK CREWS FOR INMATES

Statutory Authority:

Sections 303.063 and 227.11 (2) (a), Stats.

Analysis Prepared by the Department of Corrections

Sec. 303.063 (1), Stats. authorizes the Department of Corrections to establish a secure work program for inmates in which the inmates are assigned to work away from the grounds of the institution while appropriately restrained for security purposes.

Sec. 303.063 (2), Stats. requires that the Department of Corrections must promulgate rules specifying the procedures and regulations relating to the secure work program under (1) before it may implement such a program.

The proposed rule:

1. Provides that an inmate shall have a security classification of medium, minimum, or minimum community residential confinement in order to be eligible to participate in the secure work program.

2. Provides that intensive sanctions inmates who are sanctioned back to prison and probationers and parolees who are being held in custody as an alternative to revocation may be eligible to participate in the secure work program.

3. Provides that inmates otherwise meeting the requirements of DOC 304.04 may be assigned to the secure work program as a disciplinary disposition under s. DOC 303.

4. Provides that the warden of the correctional facility to which the inmate is assigned or the warden's designee shall review the proposed assignment of the inmate to a secure work program, and that an inmate shall be allowed to participate in a

secure work program only after the warden or the warden's designee approves the inmate's assignment.

5. Provides that a secure work crew may consist of a maximum of 12 inmates.

6. Provides that an inmate may be on any one secure work program assignment for a maximum of 60 work days.

7. Provides that inmates participating in a secure work program assignment shall be restrained by individual chain leg restraints and may be required to wear electronic stun belts or utilize other security technology during the time they are outside the perimeter of the institution.

8. Provides that each work crew shall be supervised by at least 2 correctional officers, and that at least one of those officers shall be armed.

9. Provides that inmates in the secure work program may be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned, and that work assignments may include roadside cleaning, snow removal, and construction projects.

10. Requires that inmates who are participating in secure work program assignments wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution.

11. Provides that inmates who are assigned to secure work crews, who are not in disciplinary status, shall be paid at pay ranges 1 through 3, depending upon work assignment and performance.

Forms

NA

Agency Procedure for Promulgation

Approval of notice of submittal to joint legislative council by secretary of department of corrections, submittal of rule to JLCS, notice of submittal to revisor and notice secretary

of administration under s. 227.14 (4m); approval of notice of hearing by secretary under 227.17 (2m), Stats.; public hearing under ss. 227.17 and 227.18, Stats; notice of hearing to revisor of statutes and secretary of administration under s. 227.17 (1) (bm); approval of rules in final draft form by secretary; legislative standing committee review under 227.19; Stats.; and filing of rules under s. 227.20, Stats.

Name and Phone Number of Agency Contact

Deborah Rychlowski, Office of Legal Counsel, 266-8426.

Date Sent to Legislative Council Administrative Rules Clearinghouse

June 26, 1997.

PROPOSED ORDER OF THE
DEPARTMENT OF CORRECTIONS
CREATING RULES

The Wisconsin department of corrections proposes an order to create DOC 304, relating to the inmate secure work program.

Statutory authority: ss. 303.063, 227.11 (2)

Statutes interpreted: s. 303.063, Stats.

Analysis Prepared by the Department of Corrections

Sec. 303.063 (1), Stats. authorizes the Department of Corrections to establish a secure work program for inmates in which the inmates are assigned to work away from the grounds of the institution while appropriately restrained for security purposes.

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- (3) To fulfill the goals of public protection and reintegration of the inmate into the community.
- (4) To provide service to the community.

DOC 304.02 APPLICABILITY. This chapter applies to the Wisconsin Department of Corrections and adult inmates in its custody. It interprets s. 303.063, Stats. This chapter is adopted pursuant to the authority of s. 303.063 (2), Stats.

DOC 304.03 ORGANIZATION OF THE SECURE WORK PROGRAM. (1) Inmates shall be eligible to participate in the secure work program if they meet the requirements under s. DOC 304.04.

(2) The warden of the correctional facility to which the inmate is assigned or the warden's designee shall review the proposed assignment of the inmate to a secure work program. An inmate shall be allowed to participate in a secure work program only after the warden or the warden's designee approves the

inmate's assignment.

- (3) A secure work crew may consist of a maximum of 12 inmates.
- (4) An inmate may be assigned to any one secure work crew assignment for a maximum of 60 work days.
- (5) Inmates participating in a secure work program assignment shall be restrained by individual chain leg restraints and may be required to wear electronic stun belts or utilize other security technology during the time they are outside the secure perimeter of the institution.
- (6) Each work crew shall be supervised by at least 2 correctional officers, and at least one of those correctional officers shall be armed.

DOC 304.04 ELIGIBILITY FOR SECURE WORK PROGRAM ASSIGNMENT. (1) An inmate shall have a security classification of medium, minimum, or minimum community residential confinement as defined in s. DOC 302.12 in order to be eligible to participate in the secure work program.

- (2) Intensive sanctions inmates who are sanctioned back to prison and probationers and parolees who are being held in custody as an alternative to revocation may be eligible to participate in the secure work program.
- (3) Inmates who otherwise meet the eligibility requirements of this section may be assigned to the secure work program as a disciplinary disposition under s. DOC 303.

DOC 304.05 SECURE WORK PROGRAM OPERATION. (1) An inmate participating in a secure work program assignment may be assigned to work outside the secure perimeter of the correctional institution to which the inmate is assigned.

- (2) Work assignments may include, but are not limited to, roadside cleaning, snow removal, construction projects and community service projects.
- (3) Inmates who are participating in secure work program assignments shall be required to wear distinctively colored outerwear during the time they are outside the secure perimeter of the institution.

DOC 304.06 INMATE SECURE WORK CREW PAY. Inmates assigned to secure work programs, who are not in disciplinary status, shall be paid at pay ranges 1 through 3 depending upon work assignment and performance.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Corrections

Dated: _____

By: _____

Michael J. Sullivan
Secretary

Seal: