

Chapter DOC 326

LEAVE FOR QUALIFIED INMATES

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Note: Chapter HSS 326 as it existed on November 30, 1984 was repealed and a new Chapter HSS 326 was created effective December 1, 1984. Chapter HSS 326 was renumbered Chapter DOC 326 and revised under s. 13.93 (2m) (b) 1., 2., 6. and 7., Stats., Register, April, 1990, No. 412. Chapter DOC 326 as it existed on September 30, 1997, was repealed and a new Chapter DOC 326 was created effective October 1, 1997.

Note: Several of the sections in Ch. DOC 326 have explanatory notes. These notes can be found in the appendix following the last section.

DOC 326.01 Authority and applicability. This chapter is promulgated under the authority of s. 303.068 (5), Stats., and interprets s. 303.068, Stats. It applies to the department of corrections and to all inmates in the legal custody of the department. Community custody inmates may be permitted unescorted leaves under this chapter. Leaves under this chapter are distinguishable from temporary release of inmates with supervision which is regulated by ch. DOC 325, and from work and study release for inmates which is regulated by ch. DOC 324.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.02 Purpose. This chapter provides for an eligible, community custody inmate to be considered for an unescorted leave from the institution.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.03 Definitions. In this chapter:

(1) "Administrator" means the administrator of the division of adult institutions or the administrator of the division of community corrections, department of corrections.

(2) "Bureau of health services" means bureau of health services, department of corrections.

(3) "Close family member" means the inmate's parent, child, spouse, grandparent, brother or sister. "Parent" includes a person who was previously acting as a parent, as defined in s. 822.02 (8), Stats., for the inmate.

(4) "Community custody" means that custody classification which permits inmates to participate in off-grounds activities.

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

(6) "History of assaultive behavior" means any prior arrests or charges for violent offenses, whether or not there was a conviction, and whether or not the offenses occurred inside or outside of the institution.

(7) "Leave agreement" means the written statement, signed by the inmate, by which the inmate agrees to accept the responsibilities that the privilege of the leave requires and agrees to abide by certain specified conditions of leave.

(8) "Leave for qualified inmates" or "leave" means the privilege of an unescorted, authorized absence from the institution for one of the verifiable purposes under s. DOC 326.02.

(9) "Serious illness" means a medical condition which is verified by a physician where death is imminent.

(10) "Superintendent" means the superintendent at a correctional center, or designee.

(11) "Violent offense" means a conviction for any offense in which there is actual or threatened bodily harm or any sexual offense.

(12) "Warden" means the warden at an institution, or designee.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.04 Eligibility for leave application. To be eligible to apply for a leave, an inmate shall meet the following requirements:

(1) The inmate shall be housed in a minimum security facility as described in s. DOC 302.10, including contract facilities, and the inmate shall have a community custody status as defined in s. DOC 302.09 (4).

(2) The inmate shall be able to demonstrate one of the following needs:

(a) To visit a close family member who is seriously ill.

(b) To attend the funeral of a close family member.

(c) To contact a legitimate, verified potential employer through a prearranged interview.

(d) To screen for or diagnose or treat an injury, illness or disease, as pre-approved by the bureau of health services.

(e) To visit a close family member to facilitate family reintegration and stability.

(3) The inmate shall not be confined, nor have a criminal conviction for a violent offense or a history of assaultive behavior.

(4) The inmate shall not be confined, nor have a criminal conviction for escape.

(5) The proposed leave is restricted to the state of Wisconsin.

(6) The proposed leave shall only be for a period of time necessary for the purpose of the leave, but no inmate may be granted a total of more than 3 leaves per calendar year and no leave may exceed 3 days exclusive of travel time unless an extension is granted, for cause, by the warden or superintendent.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 2001, No. 545; CR 17-026: am. (1), Register, June 2018 No. 750 eff. 7-1-18.

DOC 326.05 Process for obtaining leave. (1) The inmate or an employee on behalf of the inmate shall apply for a leave by submitting a completed, signed application and leave agreement.

(2) In completing these documents, the inmate shall be required to provide all necessary information, prove eligibility, and agree in advance to all conditions of the leave, including, but not limited to geographic and travel conditions, including travel routes and mode of transportation, the specific geographic confines within which the inmate is authorized to move, any other condition on movement, conduct or communication consistent with the intent of this chapter, and any urinalysis or breathalyzer tests, personal or strip searches by department staff or law enforcement personnel.

(3) The warden or superintendent shall designate a staff member to investigate and verify the application information according to the following procedure:

(a) Verify that there are no outstanding detainers, pending charges, or revocations.

(b) Verify the accuracy of the information in the application and the inmate's eligibility under s. DOC 326.04. This investigation shall include contact with anyone who can verify the accuracy of the information in the application. If, upon investigation, the inmate is found ineligible, the staff member shall note the reason for the ineligibility on the application.

(c) Notify the parole agent assigned to the inmate of the details of the approved leave.

(d) Attempt to determine potential community reaction to the proposed leave, including, any input from the parole agent, local law enforcement authorities and district attorneys.

(4) The staff member designated under sub. (3) shall recommend approval or denial of the inmate's application for an unescorted leave and shall refer the recommendation to approve or deny the leave to the warden or superintendent. If a recommendation to deny the unescorted leave is based on insufficient time for institution staff to investigate, review or process the application prior to the requested leave departure date, the staff member shall advise the inmate that he or she may apply for a temporary leave under supervision as provided in ch. DOC 325.

(5) The warden or superintendent shall review any recommendation and shall do either of the following:

(a) Deny the leave.

(b) Approve the leave, and impose conditions. The inmate shall sign a statement agreeing to the conditions as a prerequisite to leave being granted.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.06 Review of denial of leave. (1) An inmate may appeal the superintendent's decision to the warden or the warden's decision to the administrator in writing within 5 days of the date of the decision denying leave. This may be extended for good cause at the discretion of the warden or administrator.

(2) The warden or administrator shall issue a decision within 10 days of receiving the request.

(3) The warden's or administrator's decision to deny a leave is final.

(4) Complaints about procedural violations, but not the warden's or administrator's final decision, shall be reviewed within the inmate complaint system under ch. DOC 310.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.07 Notification of local officials. Before an inmate is released on leave, the warden or superintendent shall notify the police chief of any community involved and the sheriff and district attorney of any county involved of the details of the approved leave.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.08 Custody. An inmate granted leave remains in the legal custody of the institution from which the inmate has taken leave or to which the inmate is assigned.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.09 Expenses. All direct expenses of a leave shall be the responsibility of the inmate.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.10 Inmate conditions while on leave.

(1) An inmate shall travel to and from the leave destination by the approved method of transportation and route.

(2) An inmate shall abide by all state statutes and rules, local ordinances, and policies and procedures of the department while on leave.

(3) An inmate shall comply with the leave agreement.

(4) An inmate shall at all times have a copy of the authorization of leave on the inmate's person.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.11 Sanctions. (1) An inmate who intentionally fails to return from a leave as specified, or who intentionally leaves the approved route to or from the leave destination, may be treated as an escapee.

(2) An inmate who violates conditions of leave, the leave agreement or any rules of the department are subject to disciplinary action under ch. DOC 303.

(3) The warden or superintendent may cancel leave at any time.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

DOC 326.12 Good time credit on leave. Leave time is credited toward the service of the sentence. The time credit includes statutory and extra good time not covered by s. 973.155, Stats.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.