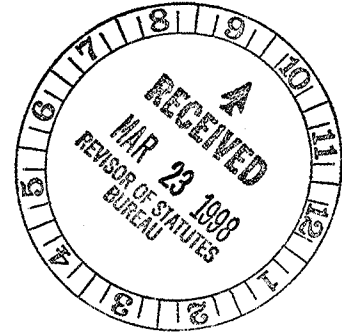


Clearinghouse Rule 98-070




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 rule, relating to the custody and detention of felony probationers and parolees, was duly approved and adopted by the Department on March 23, 1998.

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 23rd day of March, 1998.

SEAL



Michael J. Sullivan
Secretary

Publication 3/23/98
Effective 3/23/98
Expires 8/20/98
98-070

ORDER OF
DEPARTMENT OF CORRECTIONS
PROMULGATING EMERGENCY RULES
DOC 328.22 (5)

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 Milwaukee County Jail has experienced severe overcrowding. The Department of Corrections and the Milwaukee County Sheriff the have worked cooperatively to alleviate the crowded conditions that continue to prevail. This rule amendment will serve the purpose of further alleviating overcrowding by allowing any felony probationer to be detained in a Department of Corrections institution. Presently, only felony probationers with imposed and stayed sentences may be detained in a Department facility.

The Wisconsin Supreme Court ruled in Sullivan v. Kliesmet, that the Sheriff of Milwaukee County may refuse to accept Department of Corrections detainees when severe overcrowding results in dangerous conditions. The Supreme Court delayed the effective date of the Kliesmet decision one year or until June 25, 1998.

Under the authority vested in the Department of Corrections by ss. 227.11(2), and 973.10, Stats., the Department of Corrections hereby amends DOC 328.22 (5), relating to the custody and detention of felony probationers and parolees.

Statutory authority: ss. 227.11 (2), and 973.10, Stats.

Statutes interpreted: ss. 973.10 (1), and (2), 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.

Analysis Prepared by the Department of Corrections

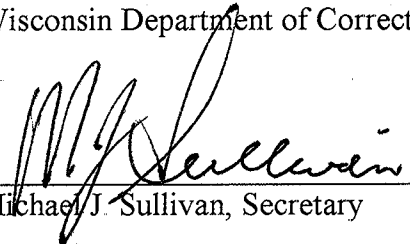
The current administrative rule Ch. DOC 328.22 (5) allows the Department of Corrections to detain, in any Department institution, any parolee or a felony probationer with an imposed and stayed sentence. The amended rule will expand upon this authority and allow the Department to detain any parolee or any felony probationer in any Department institution.

SECTION 1. DOC 328.22 (5) is amended as follows:

DOC 328.22 (5) A The department may detain a client on parole from a state correctional institution or on felony probation with an imposed and stayed sentence may be detained in an institution pending revocation proceedings.

This rule shall take effect on March 23, 1998, upon publication, as an emergency rule.

Wisconsin Department of Corrections

By 
Michael J. Sullivan, Secretary

Dated: 3/12/98

SEAL:





Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary



State of Wisconsin
Department of Corrections

3/23 pue

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

March 23, 1998



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 328, relating to custody and detention of felony probationers and parolees.

If you have any questions, please call Robert Pultz at (608) 267-0922.

Sincerely,

[Handwritten signature of Michael J. Sullivan]
Michael J. Sullivan
Secretary

Enclosures