

HSS 309

CERTIFICATE

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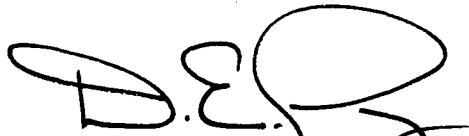
STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department, do hereby certify that the annexed rules relating to living quarters at adult correctional institutions and defining housing emergency were duly approved and adopted by this department on March 9, 1982.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 9th day of March, A.D., 1982.



Donald E. Percy, Secretary  
Department of Health and Social Services

SEAL:

5-1-82

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ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
REPEALING AND RECREATING RULES

To repeal and recreate HSS 309.39, relating to living quarters at adult correctional institutions and defining housing emergency.

Analysis Prepared by the Department of Health and Social Services:

The Legislature in ch. 20, Laws of 1981, established bed capacities at five adult correctional institutions which can be exceeded only if a housing emergency exists, and it directed the Department to promulgate rules defining housing emergency.

This rule repeals and recreates s. HSS 309.39, Wis. Adm. Code, dealing with living quarters for inmates at adult correctional institutions. It defines a housing emergency as existing when there are more inmates in a given institution than fixed bed capacity, either because of intake in excess of separation at capacity or the loss of a portion of bed capacity due to fire, storm or other damage. The section also provides that except when there is a housing emergency, inmates are to live in cells or other rooms in numbers consistent with the design capacity of the rooms. Thus, one inmate would be assigned to a room designed for single occupancy, and no more than two inmates would be assigned to a room designed for double occupancy. The rule provides guidelines to be considered in making multiple occupancy housing assignments during an emergency.

The recreated section continues to include the obligations imposed on inmates and institution staff to keep the living quarters neat and clean.

Pursuant to authority vested in the Department of Health and Social Services by ss. 46.03(6), 46.054(3) and 227.014(2) Stats., the Department hereby repeals and recreates rules interpreting ss. 46.03(1) and (6) and 46.054 , Stats., as follows:

SECTION 1. Section HSS 309.39 of the Wisconsin Administrative Code is repealed and recreated to read:

HSS 309.39 LIVING QUARTERS. (1) HOUSING EMERGENCY.

(a) "Institutional housing emergency" means:

1. The number of inmates exceeds the bed capacity of any institution specified in s. 46.054(1), Stats.; or,
2. A portion of any institution's bed capacity becomes unavailable for use as living quarters because of fire, storm or other damage, health-threatening contamination, or a disturbance, with the result that the number of inmates at any institution exceeds the bed capacity specified in s. 46.054(1), Stats., less the beds that have become unavailable.

(b) Even if a housing emergency has been declared, security determinations and transfer decisions shall be consistent with s. HSS 302.20, Wis. Adm. Code.

(2) NUMBER OF INMATES AT AN INSTITUTION. Except where an institutional housing emergency as defined in sub. (1) has been declared by the secretary on recommendation of the administrator, the number of inmates at an institution who are not assigned to medical service beds or segregation beds shall be no more than the number of beds specified in s. 46.054(1), Stats.

1. The inmate's medical, psychological, and psychiatric condition;
2. The inmate's record of assault or extreme aggressive behavior;
3. The inmate's overall institutional adjustment;
4. The inmate's history of homosexual behavior;
5. The inmate's length of sentence; and
6. The inmate's program assignment.

(e) Conditions for inmates assigned to occupancy of a room in excess of the occupancy for which the room was designed shall be as humane as possible consistent with available resources.

(5) MAINTAINING ORDERLY AND CLEAN LIVING QUARTERS. (a) Inmates shall keep assigned quarters neat and clean. Institution staff shall make necessary cleaning materials available to inmates for this purpose.

(b) Bed sheets, pillow cases, and towels shall be changed at least once a week. Each inmate shall be provided with a standard issue of blankets and similar items necessary for physical comfort.

below the established limits, the secretary will be notified and the emergency will be cancelled.

Ideally, maximum security institutions house one inmate to each cell with no dormitories or double-up. In other institutions, group living occurs only in quarters designed for it. When an emergency is declared under subsection (1), the institution may resort to dormitories and doubling-up in rooms not designed for such use.

It is difficult to decide which inmates to place in dormitories or to double-up. Subsection (4) contains guidelines for making this decision. Inmates who volunteer should be chosen if otherwise appropriate.

Subsection (4)(e) requires humane conditions for inmates who are assigned to multiple occupancy. For example, additional time out of cell could relieve some discomfort or tension that may occur when two or more people share a small living space. The largest and best equipped cells are usually better places to house inmates who are double-celled. Where feasible, additional equipment such as chairs, lamps, and tables should be added. It is easier for an inmate to endure double-celling if the inmate has a program or job assignment and is occupied during the day.

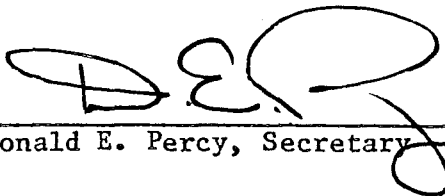
This section is in substantial conformity with ACA, standard 4142, which considers one person to each cell "important" but not "essential." It also conforms to ABA, standard 6.12; Corrections, standard 2.5; Bell v. Wolfish, 99 S. Ct. 1861 (1979); Burks v. Teasdale, 603 F.2d 59 (8th Cir. 1979); Rhodes v. Chapman, No. 80-332 (U.S. June 15, 1981).

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.026(1), Stats.

Dated: 3-9-82

Department of Health and Social Services

Seal:

  
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Donald E. Percy, Secretary



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE SECRETARY  
1 WEST WILSON STREET  
MADISON, WISCONSIN 53702

March 9, 1982

Mr. Orlan Prestegard  
Revisor of Statutes  
411 West, State Capitol  
Madison, Wisconsin 53702

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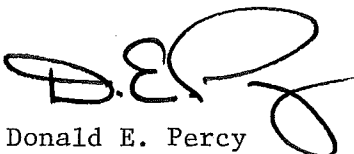
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Dear Mr. Prestegard:

As provided in section 227.023, Stats., there is hereby submitted a certified copy of HSS 309.39, administrative rules relating to living quarters at adult correctional institutions and defining housing emergency.

These rules are being submitted to the Secretary of State as required by section 227.023, Stats.

Sincerely,



Donald E. Percy  
SECRETARY

Enclosure