

CR 82-89

CERTIFICATE

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OCT 27 1982  
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Revisor of Statutes  
Bureau

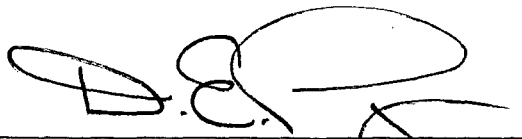
STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

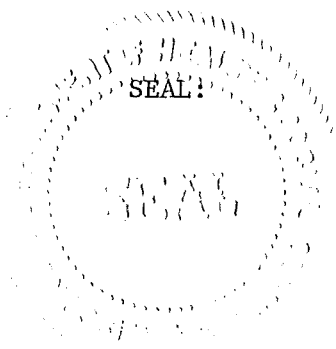
I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department, do hereby certify that the annexed rules relating to granting discretionary parole to inmates of adult correctional institutions were duly approved and adopted by this department on October 26, 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 26th day of October, A.D. 1982.



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



ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
REPEALING, RENUMBERING, AMENDING AND ADOPTING RULES

To repeal HSS 30.06(7) and 30.07; to renumber HSS 30.06(8); to amend HSS 30.04(1)(b) and (3) and 30.05(3)(a); to repeal and recreate HSS 30.04(4) and 30.05(3)(intro.) and (7); and to create HSS 30.05(8), relating to granting discretionary parole to inmates of adult correctional institutions.

Analysis Prepared by the Department of Health and Social Services

After one year of experience with HSS 30, Wis. Adm. Code, rules governing the eligibility of convicted felons for parole from adult correctional institutions and the grant of parole to those persons, the Department is refining and updating the rules.

Changes are made in HSS 30 to: clarify the meaning of "aggregate of sentences"; indicate that if an inmate refuses to participate in a parole interview, that refusal is tantamount to waiving eligibility for parole just as failure to appear at the hearing has that effect; specify that parole eligibility following waiver may be reestablished effective 4 months from the date of application; add a provision of parole consideration for an inmate unavailable for an interview because incarcerated outside of Wisconsin; and replace several factors involved in parole consideration with five thresholds which condition both the recommendation of parole and the grant of parole.

Pursuant to authority vested in the Department of Health and Social Services by ss. 46.03(6)(c), 57.06, and 227.014(2), Stats., the Department hereby repeals, renumbers, amends, and creates rules interpreting ss. 46.03(6)(c) and 57.06, Stats., as follows:

SECTION 1. HSS 30.04(1)(b) of the Wisconsin Administrative Code is amended to read:

(b) When incarceration follows revocation and involves the imposition of a new sentence or sentences the following provisions apply:

1. If the new sentences or aggregate of new sentences is imposed before ~~the inmate's~~ first consideration of the inmate for parole following revocation, and the new sentence or aggregate of new sentences is more than 18 months, the new eligibility date is one year after reception at the institution, less credit for county jail time, or the parole eligibility date on the new sentence or aggregate of new sentences, whichever is later.

2. If the new sentence or aggregate of new sentences is imposed before ~~the inmate's~~ first consideration of the inmate for parole following revocation, and the new sentence or aggregate of new sentences is 18 months or less, the new eligibility date is 6 months after reception at the institution, less credit for county jail time, or the parole eligibility date on the new sentence or aggregate of new sentences, whichever is later.

3. If the new sentence or aggregate of new sentences is imposed following ~~the inmate's~~ first consideration of the inmate for parole following revocation, the parole eligibility date ~~will~~ shall be as that date established by the board following the first consideration, unless the new sentence or aggregate of new sentences requires a later parole eligibility date.

4. In no case ~~will~~ may parole consideration occur less than 60 days following reception or return to the institution.

SECTION 2. HSS 30.04(3) of the Wisconsin Administrative Code is amended to read:

(3) WAIVER OF ELIGIBILITY. An inmate may waive parole eligibility at any time by notifying the board through the institution staff. If an inmate intentionally declines to appear before the board at the time of a scheduled interview, following notice of the scheduled interview, or if the inmate appears but refuses to participate, such failure to appear or to participate, unless excused by the board, shall be construed as a waiver of parole eligibility. In no case ~~will~~ may a waiver have a negative effect on future board considerations.

SECTION 3. HSS 30.04(4) of the Wisconsin Administrative Code is repealed and recreated to read:

(4) REESTABLISHMENT OF ELIGIBILITY. To reestablish eligibility following a waiver, the inmate shall apply to the board through the institution staff. Parole eligibility shall be reestablished 4 months from the date of application. Parole consideration shall occur during the second month prior to the parole eligibility date.

SECTION 4. HSS 30.05(3)(intro.) of the Wisconsin Administrative Code is repealed and recreated to read:

(3)(intro.) Parole consideration shall be based on information available to the assigned board members. When the inmate is available at the scheduled time, an interview shall be conducted at the inmate's place of incarceration or at a facility designated by the board. The interview, except for the deliberations of the assigned members of the board prior to reaching a decision, shall be recorded. When the inmate is temporarily unavailable for the interview, the interview shall be rescheduled. When the inmate is incarcerated in a federal facility or an out-of-state facility, parole consideration may take place in the inmate's absence, but the inmate shall receive notice, be given access to documentary information, and have an opportunity to correct errors of fact in the record as set forth in pars. (a) to (c).

SECTION 5. HSS 30.05(3)(a) of the Wisconsin Administrative Code is amended to read:

(3)(a) The institution responsible for scheduling parole consideration shall notify the inmate, in writing, at least 15 days prior to the week of the scheduled parole consideration as to when the inmate will be considered

for parole. The inmate may waive the 15 day notification requirement at any time. When consideration follows a one month deferral, notification may be other than in writing and the 15-day requirement may be set aside when failure to do so would extend the period of deferral. ~~The inmate may waive the 15-day notification requirement in this situation or at any other time.~~

SECTION 6. HSS 30.05(7) of the Wisconsin Administrative Code is repealed and recreated to read:

- (7) A recommendation for parole and a grant of parole shall be made only after the inmate has:
- (a) Become parole-eligible under s. 57.06, Stats., and s. HSS 30.04;
  - (b) Served sufficient time for punishment, considering the nature and severity of the offense;
  - (c) Demonstrated satisfactory adjustment to the institution and program participation at the institution;
  - (d) Developed an adequate parole plan; and
  - (e) Reached a point at which, in the judgment of the board, discretionary parole would not pose an unreasonable risk to the public.

SECTION 7. HSS 30.05(8) of the Wisconsin Administrative Code is created to read:

(8) The notice of consideration for parole under sub. (3)(a) shall include the factors which will be considered by the board in assessing the fulfillment of each of the requirements under sub. (7).

SECTION 8. HSS 30.06(7) of the Wisconsin Administrative Code is repealed.

SECTION 9. HSS 30.06(8) of the Wisconsin Administrative Code is renumbered HSS 30.06(7).

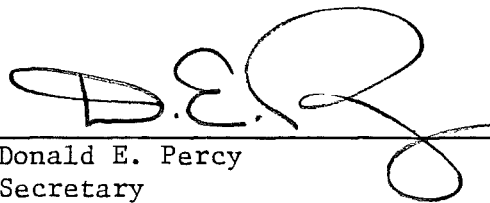
SECTION 10. HSS 30.07 of the Wisconsin Administrative Code is repealed.

The repeals, renumbering and 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.

Department of Health and  
Social Services

Dated: 10-26-82

By:

  
\_\_\_\_\_  
Donald E. Percy  
Secretary

SEAL:





State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE SECRETARY  
1 WEST WILSON STREET  
P.O. BOX 7850  
MADISON, WISCONSIN 53707

October 26, 1982

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**OCT 27 1982**

Revisor of Statutes  
Bureau

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

Dear Mr. Prestegard:

As provided in s. 227.023, Stats., there is hereby submitted a certified copy of HSS 30, administrative rules relating to granting discretionary parole to inmates of adult correctional institutions.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "D.E. Percy".

Donald E. Percy  
SECRETARY

Enclosure