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CERTIFICATE

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

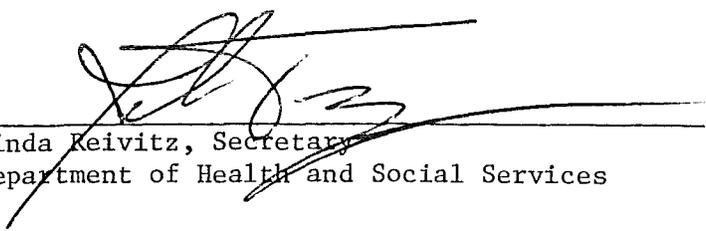
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Linda Reivitz, 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 July 23, 1984.

I further certify that this 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 23rd day of July A.D. 1984.

SEAL:

  
Linda Reivitz, Secretary  
Department of Health and Social Services

10-1-84

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

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JUL 24 1984

Revisor of Statutes

To renumber HSS 30.04(1)(intro.), (a) and (b), and 30.05(3) (intro.) and (a) to (c); to amend HSS 30.04(1)(a) and (b), as renumbered, 30.04(3), 30.05(1), 30.05(3)(a) and (c), as renumbered, and 30.06(1); to repeal and recreate HSS 30.03 and 30.05(4); and to create HSS 30.05(3)(d), relating to granting discretionary parole to inmates of adult correctional institutions.

Analysis Prepared by the Department of Health and Social Services

Chapter HSS 30, Wis. Adm. Code, contains the Department's rules governing eligibility of inmates for discretionary parole from adult correctional institutions, interviews of eligible inmates by members of the Parole Board, and the granting or denial of parole to these inmates. These rules are revised to permit the conduct of parole interviews at maximum security institutions by one member of the Parole Board rather than by 2 or more members, to bring the rules into compliance with recent statutory changes brought about by 1983 Wisconsin Acts 64 and 66, and to refine the current rules in minor ways following 2 years of experience with the policies and procedures set out in ch. HSS 30.

By permitting parole interviews by one Parole Board member rather than 2 at maximum security institutions in any month when the number of inmates in the entire system eligible for parole considerations exceeds 400, the rule change will enable the present number of Parole Board members to handle the

increased number of parole consideration interviews being experienced lately. In May 1980 there were 8 Board members and 288 scheduled interviews at all institutions; by 1983 when there were 6 members, the scheduled interviews numbered between 453 and 569 a month. The reason for restricting the practice of one-member interviews to maximum security institutions is that a parole recommendations is much less likely at that level of security. In 1983, 1620 interviews were conducted at maximum security institutions, but only 33 resulted in grant recommendations.

Significant changes being made in ch. HSS 30, in addition to permitting the conduct of a parole interview by one member of the Parole Board, are addition of language specifying that parole eligibility begins after 25% or 6 months of the sentence is served, whichever is longer, or after 20 years of a life term has been served less time earned for good conduct; authority granted to the Parole Board to recommend a waiver of this requirement if the Board determines that "extraordinary circumstances" warrant early release and the sentencing court has been notified and has had an opportunity to comment on the proposed recommendation; and requirements added that parole interviews are to be recorded, a recording retained for 6 months after the interview, and a transcript made of the recorded interview only on the order of a court which has granted a petition for judicial review of the parole decision.

Pursuant to the 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 renumbers, amends, repeals and recreates, and creates rules interpreting ss. 46.03(6)(c) and 57.06, Stats., as follows:

SECTION 1. HSS 30.03 is repealed and recreated to read:

HSS 30.03 DEFINITIONS. In this chapter: (1) "Board" means the parole board comprised of members appointed by the secretary to provide advice and recommendations to the secretary, the secretary's designee and the board chairperson in matters pertaining to parole.

(2) "Deferral" means the action by the assigned board member or members, following consideration and a decision to deny discretionary parole, to establish the next date on which the inmate becomes eligible to be considered for discretionary parole.

(3) "Discretionary parole" means parole granted, under the authority of s. 57.06, Stats., by the secretary, the secretary's designee or the board chairperson prior to the mandatory parole date.

(4) "Extraordinary circumstances" means advanced age, infirmity or disability of the inmate, need for treatment or services not available within a correctional institution, having received a sentence to serve a term of imprisonment that is substantially disparate from the sentence usually imposed for a particular offense, or other circumstances warranting an early release made known to the sentencing court pursuant to s. HSS 30.04(1)(a).

(5) "Mandatory release" means release of a convicted felon to supervision as required by s. 53.11(7)(a), Stats., and as determined by the term for which the person is sentenced minus all time credited pursuant to s. 53.11(1), Stats.

(6) "Parole consideration" means the process by which the assigned board member or members review all relevant information on an inmate approaching parole eligibility and either decide to deny the inmate parole, in which case a new parole eligibility date is established, or recommend to the secretary or designee that parole be granted.

(7) "Parole-eligible" means qualified to be considered for parole.

(8) "Parole grant" means the action by the secretary or, by delegation of the secretary, the board chairperson or other designee of the secretary, ordering the release of an inmate to field supervision by the department on or after a specific date.

(9) "Secretary" means the secretary of the department of health and social services.

SECTION 2. HSS 30.04(1) (intro.), (a) and (b) are renumbered 30.04(1)(a) to (c), and HSS 30.04(1)(a) and (b), as renumbered, are amended to read:

HSS 30.04(1) BECOMING ELIGIBLE. (a) An inmate becomes eligible for discretionary parole pursuant to s. 57.06, Stats., after serving 25% of the sentence imposed for the offense or after 6 months, whichever is longer, or after serving 20 years of a life term less the deduction earned for good conduct as provided in s. 53.11, Stats., except when incarceration follows revocation of discretionary parole or mandatory release. The department may waive the 25% or 6-month service of sentence requirement for an inmate upon the recommendation of the parole board. The parole board may recommend a waiver of the requirement only if it determines that extraordinary circumstances warrant an early release and the sentencing court has been notified and permitted to comment upon the proposed recommendation.

(b) When incarceration follows revocation, without the imposition of a new sentence, eligibility shall be established 6 months from the date of return to the institution, less credit for county jail time.

SECTION 3. HSS 30.04(3) is amended to read:

HSS 30.04(3) WAIVER OF ELIGIBILITY. An inmate may waive parole eligibility at any time by notifying the board in writing 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~~ the failure to appear or to participate, unless excused by the board, shall be construed as a waiver of parole eligibility. In no case may a waiver have a negative effect on future board considerations.

SECTION 4. HSS 30.05(1) is amended to read:

HSS 30.05(1) ~~Initial~~ Unless waived in writing by the inmate, the initial parole consideration shall be provided for each inmate during the month prior to the date of first statutory eligibility for parole.

SECTION 5. HSS 30.05(3) (intro.) and (a) to (c) are renumbered HSS 30.05(3)(a) to (d), and (a) and (c), as renumbered, are amended to read:

HSS 30.05(3)(a) Parole consideration shall be based on information available to the assigned board member or 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 member or 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)~~ (b) to (d).

(c) The inmate shall be given access to all the documentary information considered by the assigned board member or members. An exception may occur when the file contains information which is restricted

by statute or information obtained under an assurance of confidentiality as provided in administrative rule HSS 307 .

SECTION 6. HSS 30.05(3) <sup>(e)</sup>~~(d)~~ is created to read:

*re Paul Menge*  
7/27/84

HSS 30.05(3) <sup>(e)</sup>~~(d)~~ The parole board interview shall be recorded, and the recording shall be retained for 6 months following the interview. A transcript shall be prepared only upon an order of the court which has granted a petition for judicial review of the parole decision.

SECTION 7. HSS 30.05(4) is repealed and recreated to read:

HSS 30.05(4) Parole consideration shall be by one or more members of the board as assigned by the board chairperson.

(a) Consideration by one member may take place only in maximum security institutions and only in months when the total number of inmates in the prison system at all levels of security who are eligible for parole consideration exceeds 400.

(b) When single-member parole consideration interviews are conducted, 2 interviews shall take place simultaneously in proximity to one another at the same institution. If one member in the course of interviewing an inmate comes to believe that a deferral of less than 12 months or a grant recommendation may be appropriate for the inmate, that member shall ask the

other member to join him or her in making the decision or recommendation affecting the inmate.

SECTION 8. HSS 30.06(1) is amended to read:

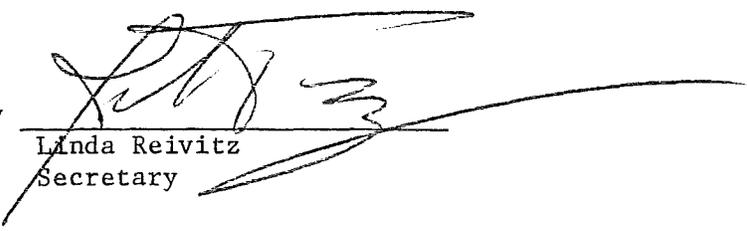
HSS 30.06(1) After consideration, the assigned board members may recommend parole with or without special conditions, or they may deny parole. If parole is denied, the assigned board members ~~will~~ shall establish a date providing for reconsideration in accordance with s. HSS 30.05(2). However, a date for further consideration of discretionary parole need not be established if the inmate will reach the mandatory release date prior to the time established according to s. HSS 30.05(2).

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: July 23, 1984

By

  
Linda Reivitz  
Secretary

SEAL:



State of Wisconsin \ DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
1 West Wilson Street, Madison, Wisconsin 53702

Anthony S. Earl  
Governor

Linda Reivitz  
Secretary

July 23, 1984

Mailing Address:  
Post Office Box 7850  
Madison, WI 53707

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

RECEIVED

JUL 26 1984

Revisor of Statutes  
Bureau

Dear Mr. Prestegard:

As provided in s. 227.023, Stats., there is hereby submitted a certified copy of HSS 30, administrative rule amendments 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,

  
Linda Reivitz  
SECRETARY

Enclosure