

CR 85-200

CERTIFICATE

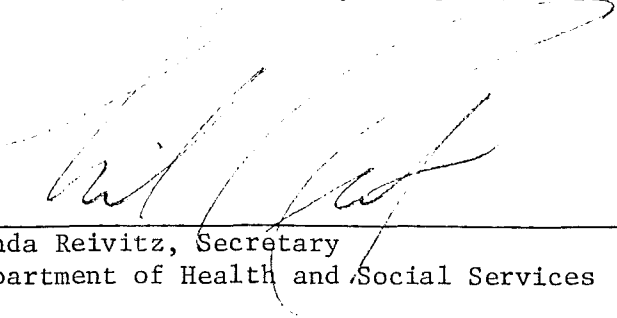
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

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 the use of mechanical restraints in adult correctional institutions were duly approved and adopted by this Department on April 22, 1986.

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 22nd day of April, 1986.



SEAL:

Linda Reivitz, Secretary
Department of Health and Social Services

RECEIVED

APR 22 1986
8:50 am
Revisor of Statutes
Bureau

6-1-86

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

To repeal HSS 306.09 Note; to amend HSS 303.11(6), 303.69(8), 303.70(8), 303.71(6)(b), and 308.04(12)(a); and to repeal and recreate HSS 306.09, relating to the use of mechanical restraints in adult correctional institutions.

Analysis Prepared by the Department of Health and Social Services

Under current rules for adult correctional institutions, only inmates in the most restrictive of the Division of Corrections' five security classifications, maximum security close, may be required to be in mechanical restraints, such as handcuffs or leg restraints, whenever they are outside their cells. Use of mechanical restraints on inmates in the other four security classifications is permitted only when inmates leave the institution.

Current rules are modified by this order to permit the use of mechanical restraints on an inmate in any security classification under the following circumstances: (1) the inmate is being transported to segregation or temporary lockup (TLU), is outside his or her cell while in segregation or TLU status, or is being transported from within to outside the institution; and (2) the institution superintendent or his or her designee determines that the use of restraints is necessary to protect staff or other inmates or to maintain security in the facility. Existing rules regarding the use of mechanical restraints on inmates who are outside the institution are retained.

Several incidents which have occurred in segregation and while transporting inmates to segregation have demonstrated the need for the use of restraints to protect the health and safety of staff and inmates. Inmates in segregation status have assaulted and injured both staff and other inmates. There have also been cases of assaults on and injuries to visitors of inmates in segregation. The assaults have had a negative effect on the work environment for staff and on the living environment for inmates in segregation status. The ability to use mechanical restraints on inmates being transported to segregation or on inmates in segregation while they are outside their cells within the institution should reduce the number of assaults and provide a more secure and less tense environment.

Pursuant to the authority vested in the Department of Health and Social Services by ss. 46.03(6)(b), 53.07, and 227.11(2), Stats., the Department of Health and Social Services hereby repeals, amends and repeals and recreates rules interpreting ss. 46.03(6)(b) and 53.07, Stats., as follows:

SECTION 1. HSS 303.11(6) is amended to read:

HSS 303.11(6) Conditions in TLU ~~should~~ shall, insofar as feasible, be the same as those in the status the inmate was formerly in. ~~If the~~ An inmate who was earning compensation and extra good time credit, ~~this shall continue to do so.~~ The inmate may be required to wear mechanical restraints, as defined in s. HSS 306.09(1), while outside the cell if the superintendent or his or her designee determines that the use of mechanical restraints is necessary to protect staff or inmates or to maintain the security of the institution.

SECTION 2. HSS 303.69(8) is amended to read:

HSS 303.69(8) LEAVING CELL. Inmates in adjustment segregation may not leave their cells except for urgent medical or psychological attention, showers, visits and emergencies endangering their safety in the cell. They may be required to wear mechanical restraints, as defined in s. HSS 306.09(1), while outside their cells if the superintendent or his or her designee determines that the use of mechanical restraints is necessary to protect staff or inmates or to maintain the security of the institution.

SECTION 3. HSS 303.70(8) is amended to read:

HSS 303.70(8) LEAVING CELL. Inmates in program segregation may not leave their cells except for medical or clinical attention, showers, visits, exercise and emergencies endangering their safety in the cell. They may be required to

wear mechanical restraints, as defined in s. HSS 306.09(1), while outside their cells if the superintendent or his or her designee determines that the use of mechanical restraints is necessary to protect staff or inmates or to maintain the security of the institution.

SECTION 4. HSS 303.71(6)(b) is amended to read:

HSS 303.71(6)(b) Inmates in controlled segregation may not leave their cells except in emergencies endangering the inmate's safety in the cell or with permission from the security director or his or her designee. They may be required to wear mechanical restraints, as defined in s. HSS 306.09(1), while outside their cells if the superintendent or his or her designee determines that the use of mechanical restraints is necessary to protect staff or inmates or to maintain the security of the institution.

SECTION 5. HSS 306.09 is repealed and recreated to read:

HSS 306.09 MECHANICAL RESTRAINTS FOR TRANSPORTATION OF INMATES.

(1) DEFINITION. In this section "mechanical restraint" means a commercially manufactured device applied to an inmate to restrain or impede the free movement of the inmate's arms or legs. Mechanical restraints include but are not limited to handcuffs with restraining belt or chain, restraining chains, leg restraints, and leather and plastic restraints.

(2) MOVEMENT WITHIN INSTITUTION. Mechanical restraints may be used in the following situations if the superintendent or his or her designee determines that the use of mechanical restraints is necessary to protect staff or other inmates or to maintain the security of the institution:

(a) In transporting an inmate from within the institution to outside the institution;

(b) In transporting an inmate to segregation or TLU status; and

(c) For an inmate who is in segregation or TLU status, while the inmate is outside his or her cell.

(3) MOVEMENT OUTSIDE INSTITUTION. Commercially manufactured mechanical restraints may be used in transporting an inmate outside an institution, in accordance with s. HSS 302.12.

SECTION 6. HSS 306.09 Note is repealed.

SECTION 7. HSS 308.04(12)(a) is amended to read:

HSS 308.04(12)(a) Shall reside alone and have a classification of maximum security-close; supervision, movement, and program shall be in accordance with ~~ss.~~ HSS 302.12(1)(a) and 306.09;

The repeals and rules contained in this order shall take effect on the first day of the month following their publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Department of Health and
Social Services

Date: April 22, 1986

By: 

Linda Reivitz
Secretary

Seal: 

10-23-2/432



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

Anthony S. Earl
Governor

Linda Reivitz
Secretary

April 22, 1986

Mailing Address:
Post Office Box 7850
Madison, WI 53707

Mr. Orlan Prestegard
Revisor of Statutes
9th Floor - 20 on the Square
Madison, Wisconsin 53702

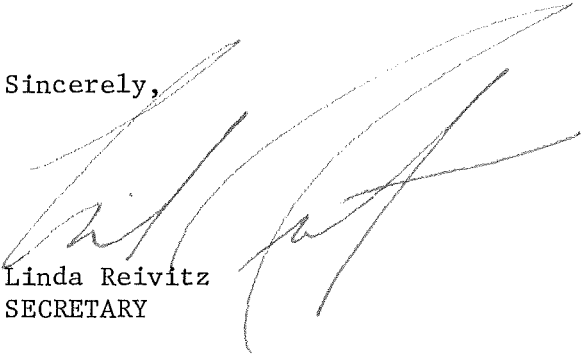
Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 306.09 et al, administrative rules relating to the use of mechanical restraints in adult correctional institutions.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rule changes do not affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,


Linda Reivitz
SECRETARY

Enclosure

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