

HEALTH AND SOCIAL SERVICES

HSS 302

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Chapter HSS 302

ASSESSMENT AND EVALUATION, SECURITY CLASSIFICATION AND SENTENCE COMPUTATION IN ADULT CORRECTIONAL INSTITUTIONS

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NOTE

Each section in this chapter has explanatory material which can be found in the appendix following HSS 302.27

HSS 302.01 Applicability of A & E process. (1) Every convicted offender sentenced or committed to a correctional institution shall participate in an orientation program, receive a security classification and assignment to an institution and be offered a vocational, job, school or program assignment (hereinafter "program assignment"), consistent with existing resources, as specified in this chapter.

(2) This initial process for orientation, security classification and program assignment shall be called "the assessment and evaluation process" (hereinafter "A & E"). In this chapter the term "convicted offender" includes a person sentenced to a correctional institution, a person committed to the department under ch. 975, Stat., and transferred to a correctional institution and a person assigned to a correctional institution after the revocation of probation, discretionary parole or mandatory release.

HSS 302.02 Purposes of A & E. The purposes of A & E shall be the following:

- (1) A comprehensive assessment of a resident's social background, sentence structure, academic and vocational achievements;
- (2) A long-term and short-term evaluation of the academic, vocational, medical, social, treatment and security needs of a resident;
- (3) An orientation to the program resources of the division of corrections;
- (4) The motivation of the offender to become constructively involved in the correctional process;
- (5) The social reintegration of the offender through the formulation of an individualized plan to aid the newly confined resident to utilize resources effectively, to develop socially acceptable life goals and to permit the division to make efficient use of available resources; and
- (6) The protection of the public through planning for appropriate correctional treatment and supervision.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.03 Duration of A & E process. (1) A & E shall be completed not more than 6 weeks after the arrival of the offender at the institution to which the offender has been sentenced or assigned.

(2) In unusual circumstances, the director of A & E (hereinafter "director") may delay the starting time of the A & E Process.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.04 Restricted movement during A & E process. (1) During A & E, a resident may be separated from the general resident population until the institution physician is satisfied that the resident is not suffering from a communicable disease or the director is satisfied that the person need not be separated for the resident's safety.

(2) The director and the security director or their designees may evaluate residents upon their arrival at the institution and recommend to the superintendent that individuals be separated from the general population and each other and have their movement restricted for the duration of A & E. The superintendent may order such residents separated and their movement restricted if he or she believes that it is necessary for the safety and security of the individual resident or of the institution.

(3) If a resident is separated from the general resident population pursuant to this section, he or she shall be notified of the reasons in writing.

HSS 302.05 Orientation during A & E process. (1) The purposes of orientation are:

(a) To initiate the correctional process in a constructive and positive manner;

(b) To communicate to residents the objectives of the correctional process, the successful reintegration of the offender into the community, and the protection of the public;

(c) To communicate to residents the commitment of the whole correctional staff to the achievement of these correctional objectives and of

(a) To provide systematic review of the resident's academic, vocational, medical, social, treatment, and security needs and progress;

(b) To monitor the implementation and revision of plans developed during A&E and previous PRC meetings;

(c) To provide supplemental or alternative program recommendations;

(d) To provide supplemental recommendations regarding security needs; and

(e) To aid the resident's reintegration into society.

(3) Such review may occur before the time designated for the review:

(a) At the designation of the PRC or at its own direction, upon the recommendation of a staff member; or

(b) At the request of the resident or a staff member, provided there is a significant change of circumstances relevant to the classification or program assignment of the resident. A request for early review by the resident shall be made to the resident's social worker who shall forward it to the PRC.

(4) Every correctional institution and camp shall have a PRC. Except at the camps, the PRC shall consist of not less than 4 permanent members which shall include:

(a) A member of the security staff holding the rank of lieutenant or higher, to be designated by the superintendent;

(b) The program review coordinator, to be designated by the classification chief;

(c) A member of the social services staff holding the rank of social services supervisor; and

(d) An educational representative in a supervisory class or a guidance counselor.

(5) The PRC in each camp shall consist of not less than 3 permanent members who shall include 3 of the following people:

(a) The social services specialist or supervisor;

(b) A social worker who shall serve as program review coordinator;

(c) A member of the security staff; or

(d) The camp superintendent or designee.

(6) A permanent member of the PRC may designate a single person to sit as an alternate, consistent with available staff. The designee need not hold the rank of the permanent member. In view of the importance of the PRC, the alternate should replace the permanent member as infrequently as possible.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.19 Program review procedure. (1) Before a resident's security classification, assignment to an institution and program assignment is reviewed by the PRC, the resident's social worker shall interview

the resident and inform the resident orally of the approximate date of the review, the criteria for review, the facts to be considered at the review, the fact that the resident has the option to appear before the PRC and must appear before a change in security classification or a transfer may be made.

(2) Before the scheduled PRC review, the resident's social worker shall:

(a) Make known to the PRC in writing the resident's view of the appropriate security classification, program assignment and assignment to an institution; and

(b) Make a written recommendation to the PRC as to the appropriate security classification, program assignment and assignment to an institution.

(3) If the resident appears, the coordinator shall inform the resident of the facts being considered, the criteria for the decision, and the recommendation of the social worker. The resident shall be afforded the opportunity to present additional facts, dispute facts being considered and state an opinion of the appropriate security classification and program assignment.

(4) The classification chief shall approve or disapprove changes in a resident's security classification and transfer upon the recommendation of the PRC.

(5) Each member of the PRC shall have one vote. A recommendation of security classification change, transfer, or approval for work or study release requires a unanimous vote of the PRC. A change in program assignment requires a majority vote of the PRC.

(6) The criteria to be applied are those stated in HSS 302.14 and 302.15 [302.16].

(7) If a vote of the PRC as to security classification, transfer, or approval for work or study release is not unanimous or if a vote as to program assignment results in a tie, the case shall be referred to the director or designee with responsibility for such decisions at the institution and the superintendent or an assistant superintendent for a recommendation as to the security classification and transfer and a decision as to program assignment. If they are unable to agree, the case shall be referred to the classification chief with recommendations for a decision. The resident's views, to the extent that they differ from the PRC's, shall be forwarded to the classification chief.

(8) Reasons for the recommendations as to the security classification and the decision as to program assignment shall be given to the resident in writing and shall include the specific facts relied upon and the criteria to which the facts were applied.

(9) To the extent that the classification chief's decisions differ from the recommendations, reasons for the decision shall be provided to the PRC and the resident in writing and shall include the facts relied upon and the criteria to which the facts were applied.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.20 Inter-institution transfers. (1) The transfer of a resident from the one institution to another requires the approval of the classification chief. Except for a transfer made as a part of the initial security classification, assignment to an institution, and program assignment during the A & E process or as otherwise provided under this section, transfers may be approved only upon the recommendation of the PRC at the institution at which the resident is residing. If the resident has been transferred pursuant to subsection (2) below, the PRC of the institution at which the resident resided before such transfer has responsibility for the recommendation. If the PRC is unable to make an unanimous recommendation as to transfer, the procedure set forth in HSS 302.19 (7) and (8) shall be followed. The criteria for the transfer decision and recommendation are those in HSS 302.14 and 302.16.

(2) The PRC may review the security classification and program assignment and consider a resident for transfer due to a disciplinary infraction, only after disposition of the disciplinary case is completed by the adjustment committee. Before the PRC review, the adjustment committee shall inform the resident that such review may occur, and that the results and findings of fact at the disciplinary hearing may be considered in the program review process.

(3) Before a review as provided in subsection (2), the resident shall be afforded a disciplinary hearing. After such hearing, the adjustment committee shall forward to the PRC the results and specific findings of facts relating to the alleged disciplinary violations. The PRC may consider this information and shall consider all the criteria provided to HSS 302.14 and 302.16 before making a recommendation as to security classification and transfer and a decision as to program assignment. The procedure provided for in HSS 302.19 shall be followed in such review.

(4) Pending such review by the PRC, the resident may be segregated from the general resident population. If an institution or camp is without the facilities necessary to do so, the resident may be transferred to a county jail pending the results of the disciplinary hearing and review of the resident's security classification and program assignment. If the sheriff's department is unable or unwilling to retain a resident, the resident may be transferred to another institution pending the disposition of the disciplinary infraction with the approval of the classification chief. Residents should be confined in county jails pursuant to this rule for as short a time as possible.

(5) If the resident is transferred to a county jail as provided in subsection (4), the disciplinary hearing and program and security review shall be held 3 less than 2 days of service of the report of the disciplinary infraction, with the consent of the resident. However, if the resident wishes additional time to prepare for the hearing and it is not possible for him or her to remain in the county jail or camp, the resident shall be transferred to a more secure institution for the hearing. In no event shall the disciplinary hearing occur more than 10 calendar days from the date of the disciplinary report.

Note: In sub. (5) "3 less than 2 days" is an error. The department's intent was to state "not more than 3 days." See the explanatory note for this section in the appendix.

(6) A resident may be transferred without following the procedures set forth in this rule and in HSS 302.19 only for the following reasons:

- (a) A medical emergency; or

(b) A security emergency.

(7) If a resident is transferred pursuant to subsection (6), the resident's program assignment, assignment to an institution and security classification shall be reviewed within 7 calendar days of such transfer by a PRC from the institution from which the resident was transferred and the procedure for review and transfer as set forth in HSS 302.19 shall be followed.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.21 Sentence computation. (1) Upon arrival at a correctional institution after sentencing or return from escape, the registrar shall compute the parole eligibility date, the projected mandatory release date and the projected discharge date for each resident. The registrar shall inform the resident in writing of these dates, within 10 working days of the resident's arrival at the institution.

(2) Upon arrival at a correctional institution after the revocation of probation, parole or mandatory release parole, the registrar shall inform the resident of the parole eligibility date, the projected mandatory release date and the projected discharge date for each resident. The registrar shall inform the resident in writing of these dates within a reasonable time.

(3) The registrar shall inform the resident in writing of any change in the parole eligibility, projected mandatory release date and the projected discharge date within 10 working days of becoming aware of such change. The projected mandatory release date may be changed due to the loss of good time or the failure to earn extra good time.

(4) Except as otherwise specified in the rules of the division, a resident shall be eligible for parole when one-half of the minimum for the crime for which the person was convicted less all credit for which the resident is entitled pursuant to s. 973.155 Stats., has been served. However, in no case shall a resident be eligible for parole before 60 days from the date of arrival at the institution. If a resident was sentenced for more than one crime, he or she must be eligible for parole on each sentence in order to be considered for parole. If a resident has received a consecutive sentence, the resident shall not begin serving the consecutive sentence for purposes of parole eligibility until the person has become eligible for parole on the first sentence.

(5) A resident serving a life sentence shall not be eligible for parole until 20 years less statutory good time has been served.

(6) The projected mandatory release date is the date upon which the resident must be released from the institution, if not granted parole, if the resident earns all the state and extra good time for which the resident is eligible, unless good time is waived in accordance with these rules.

(7) A resident's projected mandatory release date shall be the maximum term to which the resident was sentenced, reduced by credit as provided in s. 973.155, Stats., and by the statutory and extra good time the resident may earn during the sentence. State good time shall be credited from the "beginning date" of the resident's sentence. Extra good time shall be credited commencing on the date following the resident's arrival at the institution.

(8) In determining the projected mandatory release date of a resident serving concurrent sentences imposed at the same time, the greater sentence shall control. Each sentence shall commence on the date imposed, less any credit granted pursuant to s. 973.155, Stats.

(9) In determining the projected mandatory release date of a resident serving concurrent sentences imposed at different times, the sentences shall be treated as commencing on the date each was imposed, less any credit granted pursuant to s. 973.155, Stats.

(10) In determining the projected mandatory release date of a resident serving consecutive sentences imposed at the same time, the sentences shall be treated as one continuous sentence for purposes of good time credit.

(11) In determining the projected mandatory release date of a resident serving consecutive sentences imposed at different times, the sentences shall be treated as separate sentences. Accordingly, state good time shall be credited on the second sentence as though the sentence has just commenced.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.22 Ambiguity in sentence. If a registrar is uncertain as to the terms of a sentence imposed on a resident, the registrar shall notify the court of the uncertainty in writing. The registrar shall also inform the resident in writing of the uncertainty and inform the resident of the legal services available at the institution to assist the resident.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.23 Violation of discretionary parole. When a resident is returned to an institution after the revocation of discretionary parole, the resident shall receive credit toward the satisfaction of the sentence according to the following:

(1) The resident shall receive credit from the beginning date of sentence until the date of the violation of parole. State and extra good time earned from the beginning date of sentence until the date of violation may be subject to forfeiture. The date of violation shall be determined by the hearing examiner, and if the resident waived the revocation hearing it shall be determined by the resident's parole agent.

(2) The resident shall receive credit for all time from the date of placement in custody to the date of return to the institution including state good time for the period during which the resident was in custody. A person is "in custody" under the terms of this section if freedom of movement is limited in whole or in part pursuant to a departmental parole hold or in connection with the course of conduct for which parole is revoked.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.24 Violation of mandatory release. When a resident who has been released on mandatory release or has reached mandatory release while on discretionary parole is returned to an institution after the revocation of release, the resident shall receive credit toward the satisfaction of this sentence according to the following:

(1) The resident shall receive credit from the beginning date of the sentence to the mandatory release date.

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(2) The resident shall receive credit for all time from the date placed in custody until returned to the institution. A person is in custody as defined in HSS 302.23 (2).

(3) The resident shall receive credit for good time and street time, i.e. the time from mandatory release until the projected discharge date in accordance with the decision of the hearing examiner.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.245 Revocation of probation. When the probation is revoked, the probationer shall receive credit toward the satisfaction of sentence according to the following:

(1) If the probationer has already been sentenced, the term of the sentence shall begin on the date the probationer enters the prison.

(2) If the probationer has not been sentenced, he or she shall be returned to court for sentencing and unless the sentence is consecutive, the term of the sentence shall begin on the date of sentencing.

(3) All probationers whose probation is revoked shall receive credit toward the satisfaction of the sentence including state good time for all periods during which the probationer was in custody, which in whole or in part was the result of a probation-hold placed upon the person for the course of conduct which resulted in revocation.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.25 Effect of escape on sentence. A resident who escapes from custody shall receive no credit toward the service of the sentence during the period the person is unlawfully absent from custody. A resident shall be regarded as unlawfully absent unless he or she is in the custody of law enforcement officials of any state or the United States in connection with the escape, except that the person shall be treated as unlawfully absent while in custody serving a sentence other than a sentence to a Wisconsin correctional institution.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.26. Waiver of good time or entitlement to mandatory release.

(1) In this section "good time" means credit which diminishes an inmate's period of incarceration, and includes both statutory good time, under s. 53.11 (1981-82), Stats., which is credit for good conduct and performing all required duties, and extra good time, which is credit for diligence and which is earned according to the conditions and procedures set forth in s. HSS 302.27. Inmates who committed crimes before June 1, 1984, and did not choose to have 1983 Wisconsin Act 528 apply to them earn good time.

(2) An inmate or a person on mandatory release may waive good time and an inmate or person on mandatory release who committed an offense on or after June 1, 1984, or who makes a written request to the department pursuant to s. 29 of 1983 Wisconsin Act 528, may waive entitlement to mandatory release. All waivers are subject to approval by the department.

(3) The inmate or person on mandatory release who wants to waive good time or mandatory release shall do this in accordance with the following conditions and procedures:

Register, February, 1986, No. 362

(a) Except in an emergency, an inmate's request to waive good time or mandatory release shall be made not earlier than 90 days before the projected mandatory release date and not later than 30 days before that date;

(b) Not less than 15 days and not more than 180 days of good time may be waived at one time, and similarly a waiver may not result in extending the mandatory release date for less than 15 days or more than 180 days, except that a person on mandatory release may waive 360 days of good time at one time;

(c) Good time or mandatory release that is waived shall not be reinstated, except for good cause;

(d) A request to waive good time or mandatory release shall be made in writing by the inmate or person on mandatory release; and

(e) The inmate shall consult with his or her social worker and the person on mandatory release shall consult with his or her parole agent before the department will make a decision to approve a waiver of good time or of mandatory release.

(4) The director of the division's bureau of adult institutions or a designee shall make decisions on waivers by inmates, and the director of the division's bureau of community corrections or a designee shall make decisions on waivers by mandatory release parolees. The director or designee shall evaluate each request according to the criteria in this subsection and shall make a record of the reasons for the decision. Waiver requests may be approved only if extension of incarceration or new incarceration does not contribute to unreasonable overcrowding or threaten institutional security and only if:

(a) An inmate or person on mandatory release wants to complete an on-going course of medical treatment or care for an illness or injury which began in the correctional facility;

(b) An inmate wants to complete an educational or vocational program begun in the correctional facility;

(c) Time is needed to reestablish a release plan that is no longer functional; or

(d) Another objective that promotes the individual's reintegration into society will be accomplished.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79; emerg. am. eff. 8-5-85; am. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 302.27 Extra good time. (1) CONDITIONS FOR EARNING CREDIT. In order to provide an incentive to inmates in approved work and study programs to develop and reinforce positive behavior, and to promote institutional order, an inmate shall earn extra good time credit if he or she is:

(a) Assigned to a vocational, job, school, or program assignment under ch. HSS 302 and surpasses the general average in diligence in labor or study for that assignment (see sub. (4));

(b) Involuntarily unassigned and:

1. His or her last assignment was terminated because of medical or psychological problems caused or aggravated by the assignment, which were verified by the clinical staff and which made it difficult or impossible to perform in the assignment, and the appropriate staff member was notified within 2 working days after termination of the last assignment, of the inmate's willingness to work at another assignment consistent with his or her abilities; or

2. Is eligible for an assignment but has not been offered one by the program review committee (PRC) under ch. HSS 302;

(c) In administrative confinement under ch. HSS 308 and was earning extra good time credit in his or her status immediately prior to this confinement;

(d) In observation under ch. HSS 311 and was earning extra good time credit in his or her status immediately prior to this confinement;

(e) In temporary lockup (TLU) under ch. HSS 303 and was earning extra good time credit in his or her prior status; or in TLU immediately after being in program adjustment, or control segregation under ch. HSS 303, and he or she was earning extra good time credit in the prior non-segregation status. If the inmate's status in TLU is a result of a disciplinary charge, he or she may earn extra good time credit until the time of the disposition of the charge. If found innocent, the inmate may continue to earn extra good time credit. If found guilty, the inmate shall not thereafter be eligible to earn extra good time credit until he or she leaves segregation;

(f) Participating in a correspondence course approved for study assignment by the PRC;

(g) Out of the institution for a court appearance or dental or medical appointment and he or she was earning extra good time credit in the status immediately prior to leaving the institution for such matters;

(h) In sick cell status and he or she was earning extra good time credit in the status immediately prior to this status; or

(i) In a hospital placement (including those inmates transferred to mental health or medical facilities) and was earning extra good time credit in the status immediately prior to this status.

(2) CONDITIONS UNDER WHICH EXTRA GOOD TIME CREDIT SHALL NOT BE EARNED. An inmate shall not earn extra good time credit if the conditions under sub. (1) are not satisfied or if he or she:

(a) Is voluntarily unassigned;

(b) Is involuntarily unassigned for reasons other than those stated under sub. (1) (b), for instance, to simply avoid work or study;

(c) Is in adjustment segregation;

(d) Is in program segregation;

(e) Is in control segregation;

(f) Refuses to accept a work or study assignment offered by the PRC;

or

(g) Is in voluntary confinement—unless the inmate requested placement in this status upon the recommendation of, or with approval of the security director for the purpose of ensuring the inmate's safety and the inmate was earning extra good time prior to such placement.

(3) **CRITERIA FOR AWARDING EXTRA GOOD TIME CREDIT.** The division shall establish reasonably uniform written criteria that shall be used for the awarding of extra good time credit for all vocational, job, school, and program assignments with similar necessary skills and responsibilities within all adult correctional facilities.

(a) To the extent that is necessary because of the unique requirements of a vocational, job, school or programming assignment each supervisor shall establish additional reasonable criteria consistent with the necessary skills and responsibilities of that assignment that shall be used to evaluate an inmate's diligence in that assignment for the purpose of awarding extra good time credit.

(b) The criteria under sub. (3) or (4) shall be the only criteria used in the determination of whether to award credit and shall state what is meant by "the general average in diligence in labor or study" for that assignment.

(c) If a inmate is not capable of performing in his or her assignment at the level of "the general average in diligence," for instance, because of poor dexterity skills or mental, developmental, or physical disabilities that have been confirmed through clinical testing, the supervisor shall develop new reasonable criteria for evaluation consistent with the skills and responsibilities of that assignment and the special disabilities of the inmate, if the inmate, his or her social worker, and supervisor agree that a change of assignment is unnecessary or undesirable.

(d) The criteria for evaluating inmate diligence in performance for each assignment and any special criteria developed pursuant to par. (c) shall be available to inmates prior to commencement of the assignment and to the staff upon request.

(4) **MONTHLY PERFORMANCE EVALUATION.** Each supervisor shall make a monthly written evaluation of the inmate's performance. Such an evaluation shall indicate whether or not extra good time credit is recommended for an inmate. If extra good time credit is not recommended, the reasons for this decision shall be noted on the evaluation.

(a) If extra good time credit is not recommended for an inmate for a particular month, he or she shall receive written notice of the decision from the supervisor, including the reasons for it, within 5 working days of the decision.

(b) An inmate may appeal a decision under sub. (4) to his or her supervisor within 5 days of receipt of notice. The supervisor shall have the authority to amend his or her earlier decision in favor of the inmate within 5 working days of the appeal. If amended, the registrar and the inmate shall receive written notification of the change and the reasons for it. Failure by the supervisor to render a decision within the allowed time shall signify an affirmation of the earlier decision, and the inmate shall be notified of this.

(c) If the supervisor fails to amend his or her earlier decision within the time allowed, the inmate may appeal to the superintendent within 5

working days after that time. If the superintendent fails to render a decision within 5 working days after the appeal, the decision of the supervisor under sub. (10) is affirmed, and the inmate shall be notified of this.

(d) Any question regarding an inmate's eligibility for credit under sub. (1) or (2) shall be referred to the superintendent for resolution.

(5) **SCHEDULE OF GOOD TIME CREDIT.** An inmate shall earn extra good time credit as follows:

Extra good time credit earned for a calendar month (in days)	Cumulative number of days in a calendar month in a status eligible for credit	Cumulative number of days in a calendar month in a status not entitling inmate to credit
0	0	30
1	6	24
2	12	18
3	18	12
4	24	6
5	30	0

(a) If an inmate is entitled to extra good time for any fraction of a calendar day, that whole day shall be credited.

(b) An inmate shall earn fractions of one day of extra good time for each day in a status entitling the inmate to credit.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.