

CR 87-40

CERTIFICATE

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OCT 5 1987

*11:20 am*  
Revisor of Statutes  
Bureau

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

I, Timothy F. Cullen, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to access by inmates of adult correctional institutions and the Wisconsin Resource Center to information considered by the Parole Board were duly approved and adopted by this Department on October 1, 1987.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the 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 1st day of October, 1987.



\_\_\_\_\_  
Timothy F. Cullen, Secretary  
Department of Health and Social Services

SEAL:

12-1-87

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

To repeal and recreate s. HSS 30.05(3)(c), relating to access by inmates of adult correctional institutions and the Wisconsin Resource Center to information considered by the Parole Board.

Analysis Prepared by the Department of Health and Social Services

The Department's rules for operation of the Parole Board are set forth in ch. HSS 30 of the Wisconsin Administrative Code. Under s. HSS 30.05(3)(c), an inmate who is being considered for parole may examine the same documents that Parole Board members review unless the information is restricted by statute or has been obtained under an assurance of confidentiality. This order modifies s. HSS 30.05(3)(c) to reflect current practice. It specifies in rule form the current procedures that inmates must follow to gain access to the documents in question. The procedure is the same as the procedure an inmate uses to gain access to records of the institution in which he or she is confined. The impetus for this change was a recent opinion by the Dane County Circuit Court stating that s. HSS 30.05(3)(c) requires the Parole Board to provide the inmate with the documents considered by Board members. The Board's practice, which is reflected in this order, has been to have the inmate request the information from the institution in which he or she is confined.

This order also adds a provision to s. HSS 30.05(3)(c) to make it clear that the Parole Board may restrict access to information submitted to the Department by someone whose expectation was that the information be treated as confidential. The Parole Board decides whether to restrict inmate access to such information on a case-by-case basis, weighing the right of public access to documents against the harm that may be done to the public interest by disclosure.

The Department's authority to repeal and recreate these rules is found in ss. 46.03(6)(c), 57.06 and 227.11(2)(a), Stats. The rules interpret s. 57.06, Stats.

SECTION 1. HSS 30.05(3)(c) is repealed and recreated to read:

HSS 30.05(3)(c) The inmate shall have access to the documentary information considered by the assigned board member or members, except that the board may restrict inmate access to information that has been obtained under an assurance of confidentiality or submitted to the department with the expectation that the information would be held confidential. The board shall make a

decision whether to restrict inmate access to that information on a case-by-case basis, weighing the right of public access to documents against the harm that may be done to the public interest by disclosure. Information restricted by statute is confidential and may not be disclosed. The board shall make and keep a written record of any decision to withhold information from an inmate and shall notify the inmate that it will consider information which has been withheld from the inmate in accordance with this paragraph. An inmate shall have access to information to which he or she is entitled under this paragraph in accordance with procedures governing inmate access to records at the correctional institution in which the inmate is confined or at the Wisconsin Resource Center if the inmate is confined there.

The repeal 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.

Wisconsin Department of Health and  
Social Services

Date: October 1, 1987

By: \_\_\_\_\_



Timothy F. Cullen, Secretary

SEAL:

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2-4-12/382



State of Wisconsin

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

Tommy G. Thompson  
Governor

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Timothy F. Cullen  
Secretary

OCT 5 1987

Mailing Address:  
Post Office Box 7850  
Madison, WI 53707

October 1, 1987

Revisor of Statutes  
Bureau

Mr. Orlan Prestegard  
Revisor of Statutes  
7th Floor - 30 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 30.05(3)(c), relating to access by inmates of adult correctional institutions and the Wisconsin Resource Center to information considered by the Parole Board.

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

These rule changes apply to the Parole Board, to inmates of adult correctional institutions who are being considered for parole, and to individuals who provide information to the Parole Board. They do not directly affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

Timothy F. Cullen  
SECRETARY

Enclosure