

## Chapter HSS 302

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

HSS 302.01	Applicability of A&E process (p. 1)	HSS 302.18	Program review (p. 10)
HSS 302.02	Purposes of A&E (p. 2)	HSS 302.19	Program review procedure (p. 11)
HSS 302.03	Duration of A&E process (p. 2)	HSS 302.20	Inter-institution transfers (p. 13)
HSS 302.04	Restricted movement during A&E process (p. 2)	HSS 302.21	Sentence computation (p. 14)
HSS 302.05	Orientation during A&E process (p. 2)	HSS 302.22	Ambiguity in sentence (p. 16)
HSS 302.06	Orientation in writing during A&E process (p. 3)	HSS 302.23	Discretionary parole violators not subject to 1983 Wisconsin Act 528 (p. 16)
HSS 302.07	Orientation for handicapped individuals during A&E process (p. 3)	HSS 302.24	Mandatory release parole violators not subject to 1983 Wisconsin Act 528 (p. 16-1)
HSS 302.08	Orientation upon transfer (p. 3)	HSS 302.25	Parole violators subject to 1983 Wisconsin Act 528 (p. 16-1)
HSS 302.09	Recorded information (p. 4)	HSS 302.26	Discretionary release for parole violators (p. 16-2)
HSS 302.10	Orientation by residents during A&E process (p. 4)	HSS 302.27	Revocation of probation (p. 16-2)
HSS 302.11	Security classifications (p. 4)	HSS 302.28	Sentence credit (p. 16-2)
HSS 302.12	Security classifications (p. 4)	HSS 302.29	Effect of escape on sentence (p. 16-3)
HSS 302.13	Institutional security classifications (p. 6)	HSS 302.30	Waiver of good time or entitlement to mandatory release (p. 16-3)
HSS 302.14	Criteria for security classification (p. 8)	HSS 302.31	Extra good time for inmates not covered by 1983 Wisconsin Act 528 (p. 16-4)
HSS 302.15	Program assignment (p. 9)	HSS 302.32	Special action release program (p. 16-7)
HSS 302.16	Criteria for program assignment (p. 9)		Appendix (p. 17)
HSS 302.17	Procedure for program assignment and security classification at conclusion of A&E process at WCI-Waupun, WCI-Green Bay, and WCI-Taycheedah (p. 10)		

Note: Each section in this chapter has explanatory material which can be found in the appendix following the last section of the chapter.

**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.

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

Register, December, 1988, No. 396

**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.

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

**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;

Register, December, 1988, No. 396

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

**Next page is numbered 3**

1. THE STATE OF TEXAS, COUNTY OF DALLAS, ss. I, \_\_\_\_\_, Clerk of the County of Dallas, Texas, do hereby certify that the following is a true and correct copy of the original as the same appears in the records of the County of Dallas, Texas, to-wit:

\_\_\_\_\_

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; renum. from HSS 302.27, cr. (1), Register, February, 1987, No. 374, eff. 3-1-87.

**HSS 302.32 Special action release program (1) DEFINITIONS.** In this section:

(a) "Agent of record" or "agent" means the employe of the department's bureau of community corrections to whom an inmate is assigned before release under this section.

(b) "Assaultive conduct" means an action inside or outside a correctional institution that results in or is intended to result in physical harm to another. Inside a correctional institution, assaultive conduct may be evidenced by violations of the department's disciplinary rules under ch. HSS 303, which demonstrate physical harm to another or an intention to physically harm another.

(c) "Department" means the Wisconsin department of health and social services.

(d) "Detainer" means a writ or instrument issued or made by a competent officer, directing the keeper of a prison to notify the issuing authority when the named person is about to be released so that the issuing authority may obtain custody of the named person if appropriate.

(e) "Discretionary parole" means release of an inmate from the institution on recommendation of the parole board under s. HSS 30.06.

(f) "Mandatory release" means release of an inmate from the institution to supervision as required by s. 53.11, Stats., if not granted discretionary parole or special action release earlier.

(g) "Parole-eligible" means qualified to be considered for discretionary parole pursuant to s. 57.06, Stats., and s. HSS 30.04.

(h) "Secretary" means the secretary of the department or the secretary's designee.

(i) "SAR" or "special action release" means release of an inmate from the institution to parole supervision by decision of the secretary or the secretary's designee prior to mandatory release or a discretionary parole recommended by the parole board.

(j) "SAR coordinator" means the employe of the department who assembles all documents on an inmate relevant to SAR consideration and submits them to the secretary.

(k) "Social worker" means the institution social worker to whom an inmate is assigned.

(2) PURPOSE. The special action release program is intended to relieve crowding in state prisons by releasing select prisoners to parole supervision using a procedure other than mandatory release or a discretionary parole recommended by the parole board. The program intends to maintain the highest possible levels of public safety commensurate with good correctional practice by basing release determinations on individual differences among inmates, their offenses, their institutional records, and their abilities to comply with the rules of parole and to maintain themselves in open society without engaging in criminal activity.

(3) ELIGIBILITY FOR SPECIAL ACTION RELEASE CONSIDERATION. (a) To be eligible for special action release consideration, an inmate:

1. Shall be parole-eligible under s. 57.06, Stats., and s. HSS 30.04;
2. Shall have served a minimum of 6 months in the Wisconsin state prison system;
3. May not have been granted a special action release previously, if the inmate is currently serving time on a new criminal conviction;
4. May never have had a felony or misdemeanor conviction for an assaultive crime;
5. May not have a known history of assaultive conduct inside or outside of a correctional institution, except that an inmate who has a known history of assaultive conduct that did not result in a conviction may be considered for special action release if one of the following applies:
  - a. The conduct occurred more than 5 years prior to SAR review by the social worker under sub. (4) (a) 1;
  - b. The inmate acted in self-defense or defense of property;
  - c. The inmate is to be released to a structured living arrangement such as a halfway house;
  - d. The inmate's conduct was an isolated incident not likely to be repeated; or
  - e. The inmate's age or physical condition makes repeat of the assaultive conduct unlikely;
6. Shall agree to intensive supervision and any other special conditions the secretary under sub. (7) (a) and (c) or the parole agent under sub. (7) (b) and (c) may impose;
7. Shall have a parole plan, investigated by the agent of record; and

8. If he or she is to be supervised in another state, shall be accepted for supervision by that other state.

(b) No special action release may be granted more than 12 months prior to the inmate's mandatory release date.

(c) An inmate in an affected correctional institution may be eligible for SAR consideration without meeting the criteria under pars. (a) 3, 4, 5 and (b) if:

1. The department is subject to a court order or consent decree entered on or prior to August 24, 1988, which imposes a maximum population capacity for or otherwise requires inmate releases from a correctional institution;

2. The inmate is not currently serving time on a felony or misdemeanor conviction for an assaultive crime;

3. The institution social worker or agent of record has reason to believe the inmate will be able to maintain himself or herself in society without engaging in assaultive activity; and

4. The inmate is not granted a special action release more than 24 months prior to the inmate's mandatory release date.

(d) An inmate who has an active detainer is eligible for SAR consideration without meeting the criteria under par. (a) if the detainer concerns a sentence imposed in another jurisdiction and the remainder of that sentence is equal to or longer than the remainder of the Wisconsin sentence. In this paragraph, "active" means that the jurisdiction issuing the detainer intends to obtain custody of the inmate immediately upon release.

(e) An inmate may waive eligibility for SAR consideration at any time by notifying the institution social worker, except that an inmate who has an active detainer may not waive eligibility for SAR consideration. To reestablish eligibility following a waiver, the inmate shall notify the institution social worker that the inmate no longer waives eligibility for SAR consideration.

(4) PROCEDURE FOR APPROVAL FOR SAR CONSIDERATION. (a) *Social worker responsibilities.* 1. Social workers shall review inmate files assigned to them to identify inmates who may be eligible for SAR consideration. The social worker may contact the agent of record to obtain further information concerning an inmate's eligibility.

2. If an inmate appears to be eligible for SAR consideration, the social worker in consultation with the inmate shall develop a parole plan which considers the inmate's institutional conduct, the inmate's resources and plans for the inmate's residence and job placement upon release.

3. The social worker shall send a copy of the parole plan to the agent of record, the SAR coordinator and the social worker's supervisor.

4. The department shall notify in writing the office of the district attorney which prosecuted the inmate, the court which sentenced the inmate and the victim of the crime committed by the inmate, if the victim submits a card under s. 57.06 (1) (f), Stats., that the inmate is being considered for SAR. The notice shall advise the district attorney, court and the victim that they are permitted to submit written comments regarding the proposed release, which will be placed in the special action release

record developed by the SAR coordinator under par. (c) 1 for the secretary. The notice shall be mailed at least 21 days before the secretary under sub. (5) makes a decision concerning the release of the inmate.

(b) *Agent responsibilities.* 1. Upon receipt of the parole plan from the social worker, the agent shall carry out an investigation to determine if the plan is appropriate and shall include in that investigation assessments of the inmate's proposed residence, employment and community treatment plans.

2. If the plan is not appropriate, the agent shall suggest alternatives to the inmate and social worker and attempt to develop an acceptable plan in consultation with the inmate and social worker.

3. The agent shall write a report which shall include the results of the investigation under subds. 1 and 2. The report shall address probable reaction to the inmate in the community where the inmate proposes to reside and shall contain other relevant information that is not available to the institution.

4. The agent shall send a copy of the report under subd. 3 to the SAR coordinator.

(c) *SAR coordinator responsibilities.* 1. The SAR coordinator shall assemble all relevant documents on an inmate, including the inmate's parole plan, the agent's report, any comments received from the district attorney's office, judge or victim, a summary of the inmate's arrests and convictions, reasons why the parole board denied parole, if applicable, and any other relevant information requested by the secretary.

2. The SAR coordinator shall submit the relevant information to the secretary for consideration.

(5) **DECISION.** (a) After reviewing the information about the inmate submitted by the SAR coordinator, the secretary shall decide whether to grant or deny an SAR. The secretary may consider the following factors in deciding whether to grant or deny an SAR:

1. Parole eligibility;
2. The inmate's criminal record, the nature of the offense of which the inmate was convicted and any known history of assaultive conduct outside a correctional institution;
3. Institutional adjustment;
4. Adequacy of the parole plan;
5. Population pressures;
6. Risk to the public safety; and
7. Any other factors which relate to whether the inmate will be able to comply with the rules of parole and maintain himself or herself in open society without engaging in assaultive or any other criminal activity.

(b) The secretary's decision is final.

(c) If the SAR is granted, the secretary may impose in writing any special conditions that are appropriate.



(d) The institution where the inmate is incarcerated shall inform the inmate of the decision to grant or deny an SAR and, if granted, of any conditions imposed on the inmate's release.

(6) NOTIFICATION. Before the inmate is released, the department shall notify the municipal police department and the county sheriff for the area where the inmate plans to reside and shall notify the victim of the crime committed by the inmate, if the victim submits a card under s. 57.06 (1) (f), Stats., and if the victim can be found.

(7) CONDITIONS. (a) The conditions that the secretary may impose under sub. (5) (c) include but are not limited to the following:

1. A period of intensive supervision which requires the former inmate to report to the agent on the first day of release and to contact the agent in person at least once a week for a minimum of 90 days, and which requires the agent to visit the former inmate's place of residence or employment once a month during the period of intensive supervision;

2. Restrictions on residence;

3. Restrictions on travel and local movement;

4. Restrictions on associations;

5. Restrictions on possessions;

6. Restrictions on consumption of drugs and alcohol;

7. Requirements for inpatient or outpatient treatment, including treatment for alcohol abuse or other drug abuse;

8. Requirements for training and participation in other self-improvement programs including job training;

9. Requirements for the former inmate to make himself or herself available for any tests or searches ordered by the agent, including urinalysis, breathalyzer and blood sample tests, or for search of the former inmate's residence, person or any property under his or her control;

10. Electronic monitoring; and

11. Any other specific condition to achieve the purpose of maintaining the former inmate in open society without engaging in criminal activity.

(b) In addition to the rules provided under ch. HSS 328, the agent may develop additional written rules and specific conditions for the new client's parole supervision to achieve the goals and objectives of supervision under ch. HSS 328.

(c) The secretary may modify the conditions of the former inmate's special action release at any time until discharge from supervision, and the agent may modify the rules and specific conditions of the new client's parole supervision at any time until discharge from supervision.

(d) A client released under special action release who violates the rules or conditions of his or her supervision is subject to revocation under ch. HSS 31 procedures.

History: Emerg. cr. eff. 4-1-88; emerg. am. eff. 9-8-88; cr. Register, December, 1988, No. 396, eff. 1-1-89.