

Chapter DOC 326

LEAVE FOR QUALIFIED INMATES

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Note: Chapter HSS 326 as it existed on November 30, 1984 was repealed and a new Chapter HSS 326 was created effective December 1, 1984. Several of the sections in Ch. DOC 326 have explanatory notes. These notes can be found in the appendix following the last section.

Note: Chapter HSS 326 was renumbered Chapter DOC 326 and revised under s. 13.93 (2m) (b) 1, 2, 6 and 7, Stats., Register, April, 1990, No. 412.

DOC 326.01 Authority and applicability. This chapter is promulgated under the authority of s. 303.068 (5), Stats., and interprets s. 303.068, Stats. It applies to the department and to all adult inmates in the legal custody of the department for correctional purposes. Unescorted leave for minimum security inmates under this chapter is distinguishable from temporary release of inmates with supervision which is regulated by ch. DOC 325, and from work and study release for inmates which is regulated by ch. DOC 324.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

DOC 326.02 Purpose. The purpose of this chapter is to permit a qualified minimum security inmate to be on unescorted leave from the institution for up to 3 days, exclusive of travel time, with a possible extension of another 3 days, exclusive of travel time, to visit a close family member who is seriously ill or for the purpose of facilitating eventual reintegration of the inmate into the family and the stability of the family, to attend the funeral of a close family member, to contact a prospective employer, or to be screened for, diagnosed, or treated for an injury or illness. A leave may be granted only if it is consistent with the public's need for protection. Decisions on leave applications are to be consistent with these goals.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

DOC 326.03 Definitions. In this chapter:

(1) "Close family member" means a parent, child, spouse, grandparent, brother or sister. "Parent" includes a person who was previously acting as a parent, as defined in s. 822.02 (8), Stats., for the inmate.

(2) "Department" means the department of corrections.

(3) "Division" means the department's division of adult institutions.

(4) "Classification chief" means the chief of classification of the division of adult institutions of the department of corrections or that person's designee.

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(5) "Detainer" means a document filed with the department of corrections by another criminal justice agency to initiate transfer of custody upon release of the inmate from the department's custody.

(6) "Leave agreement" means the written statement, signed by the inmate, by which the inmate agrees to accept the responsibilities that the privilege of leave requires and agrees to abide by certain specified conditions of leave.

(7) "Leave condition" or "condition of leave" means a specific written requirement or limitation placed upon leave that has been granted.

(8) "Leave destination" means the physical location of the leave principal or event that is the justification for the leave.

(9) "Leave for qualified inmates" or "leave" means a privileged, authorized absence from an institution for one of the following purposes under s. 303.068, Stats.:

(a) To visit a close family member who is seriously ill;

(b) To attend the funeral of a close family member;

(c) To contact a prospective employer;

(d) To be screened, diagnosed or treated for an injury, illness or disease; or

(e) To visit a close family member to facilitate family reintegration and stability.

(10) "Leave principal" or "principal" means the individual approved during the eligibility review process as willing and able to assist in the leave and who has agreed to assist in the leave. "Leave principal" may include but is not limited to a member of the immediate family or a potential employer.

(11) "Misconduct" means behavior in violation of state or federal statutes, administrative rules of the department, the leave agreement or any conditions of leave.

(12) "Program review committee" or "PRC" means the committee described in s. DOC 302.18.

(13) "Regional chief" means the chief of a division of probation and parole region of the department of corrections, or that person's designee.

(14) "Reviewing authorities" means the program review committee and the superintendent.

(15) "Serious illness" means an illness from which death may be imminent in the oral or written, formal or informal, opinion of an attending physician.

(16) "Superintendent" means the superintendent of the institution or that person's designee.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

DOC 326.04 Eligibility for leave application. To be eligible to apply for a leave, an inmate shall meet the following requirements:

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(1) The inmate shall have a security classification of minimum or minimum/community residential confinement. If the inmate has a security classification of minimum, he or she shall have had that classification for at least 30 days prior to application.

(2) The leave shall be requested for one of the purposes under s. DOC 326.03 (9).

(3) (a) If the purpose of leave is to contact a prospective employer, the inmate shall have a deferral, as defined in s. DOC 330.03 (2) of 6 months or less from the state parole commission, or shall be within 6 months of mandatory release or discharge or shall be in a community corrections center.

(b) An inmate serving a life sentence shall have attained parole eligibility prior to making application and shall meet all other criteria.

(c) The inmate may not have a Wisconsin probation or parole revocation proceeding pending.

(4) If the purpose of the leave is to obtain medical treatment, that treatment may not be in lieu of treatment already provided at the institution, except at the inmate's own expense.

(5) The inmate shall agree in advance to examinations such as urinalysis or breathalyzer test and personal or strip searches upon return to the institution or during the leave. Tests shall be conducted upon order of a law enforcement official, an official of the division of probation and parole or an official of the division of adult institutions. The inmate may not be granted a leave unless he or she agrees to these examinations.

(6) The leave principals shall consent to the leave. A failure to consent by any leave principal shall make the inmate ineligible.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84; r. and recr. (1), Register, September, 1990, No. 417, eff. 10-1-90.

DOC 326.05 Criteria for leave. The criteria for granting or denying a leave application may include only the following:

- (1) The inmate's eligibility under s. DOC 326.04.
- (2) The risk of escape. In deciding whether an inmate presents a risk of escape, the following factors are relevant:
 - (a) The inmate's escape record;
 - (b) Detainers filed with respect to the inmate. The facts underlying a detainer shall be the relevant criteria; and
 - (c) Misconduct on a prior leave.
- (3) The disciplinary record of the inmate.
- (4) Any other matter consistent with the purposes of leave under s. DOC 326.02. Such matters may include, but are not limited to:

(a) The substantial likelihood of a severe negative reaction in the community to which the inmate is granted leave or in the community where the offense was committed; or

(b) The substantial likelihood that the inmate will be in physical danger while on leave.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

DOC 326.06 Conditions. (1) The reviewing authorities shall impose the following written conditions on all leaves granted:

(a) The leave shall be restricted to the state of Wisconsin;

(b) The leave shall be granted for a period of time necessary for the purpose of the leave, but no inmate may be granted a total of more than 3 leaves per calendar year under s. DOC 326.03 (5) (a) (b) and (e) combined, and no leave may exceed 3 days exclusive of travel time unless an extension is granted under par. (c); and

(c) One extension beyond the 3-day maximum period for a leave may be granted by the superintendent for reasons consistent with the purpose of the leave. The extension shall not exceed 3 days exclusive of travel time.

(2) The reviewing authorities may impose in writing the following additional conditions appropriate to specific applications:

(a) Geographic and travel conditions including travel routes, mode of transportation, the specific geographical confines within which the inmate is authorized to move, and other relevant restrictions; and

(b) Any condition on movement, conduct or communication consistent with the purposes of leave under s. DOC 326.02.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

DOC 326.07 Process for obtaining leave. (1) An inmate or an employe on behalf of the inmate shall apply for a leave far enough in advance of the requested departure date to permit investigation, review by the program review committee (PRC) and appeal of an adverse decision, by submitting an application and a signed leave agreement. The application shall contain details including time, dates, principals involved, and any other relevant information. An inmate shall submit the application to the institution social worker. An employe shall submit the application to the program review committee or institution social worker.

(2) An employe or designee of the department shall investigate and document the validity of the application for leave according to the following procedure:

(a) The employe or designee shall review the application for leave to verify the accuracy of the information in the application and the inmate's eligibility under s. DOC 326.04. This investigation may include contact with the principals named on the leave application and any other person who can verify the accuracy of the information in the application. If, upon investigation, the inmate is found ineligible, the employe or department designee shall note the reason for the ineligibility in writing on the application;

(b) If the inmate is eligible, the application shall be investigated by the employe or designee to ascertain all information that could be relevant to the reviewing authorities' decision based on the criteria for leave under s. DOC 326.05. This investigation may include contact with relevant law enforcement and criminal justice agencies, including the committing court. Detainers filed with respect to the inmate shall be investigated in the manner provided under s. DOC 302.14 (14);

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