

CR 93-102

CERTIFICATE

STATE OF WISCONSIN)
)
DEPARTMENT OF CORRECTIONS) ss.

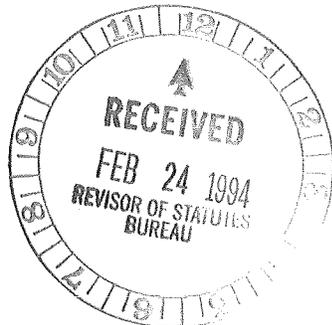
I, Michael J. Sullivan, Secretary of the Department of Corrections and custodian of the official records of the Department, do hereby certify that the annexed rule relating to establishing a policy of no-contact visiting for inmates under limited circumstances was duly approved and adopted by this Department on February 24, 1994.

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 of Corrections at the State Office Building, 149 East Wilson Street, in the city of Madison, this 24th day of February, 1994.

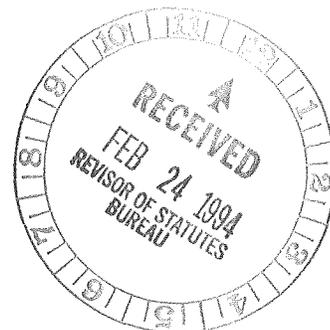
SEAL:

Michael J. Sullivan for Michael J. Sullivan
Secretary
Department of Corrections



5-1-94

**ORDER
OF
DEPARTMENT OF CORRECTIONS
PROMULGATING CLEARINGHOUSE RULE 93-102**



INTRODUCTORY CLAUSE

The Wisconsin department of corrections proposes an order to renumber DOC 303.21(2) and DOC 303.84(1)(f), (g), (h), (i) and (j) and amend DOC 303.63(1)(a), DOC 303.68(6), DOC 303.69(4), DOC 303.70(4), DOC 71(4), DOC 303.72(4), DOC 303.74(5)(b), DOC 303.84(1)(e), DOC 309.11(2), DOC 309.12(2)(e), DOC 309.12(3), DOC 309.13(1)(g) and (h), and DOC 309.16(4)(g) and (h), and create DOC 303.02(12m), DOC 303.21(2), DOC 303.84(1)(f), DOC 309.02(2m) and (8m), DOC 309.12(8m), DOC 309.13(1)(i), DOC 309.16(3m) and (4)(i), and DOC 309.165, relating to establishing a policy of no-contact visiting for inmates under limited circumstances.

PLAIN LANGUAGE ANALYSIS

Statutory Authority: Sections 227.11(2)(a) and 301.03(2), Stats.

Statutes Interpreted: Section 301.03(2), Stats.

Currently, sections DOC 309.16 and DOC 309.17 do not specifically permit staff of adult correctional institutions to impose no-contact visiting on inmates who have been found guilty through the disciplinary process of violating administrative rules or institution policies or procedures. The department in proposing this rule amends chapters DOC 303 and DOC 309 to permit no-contact visiting for security reasons in several situations. First, this rule permits no-contact visiting when an inmate is found guilty of a violation of the administrative code or institution policies or procedures which are related to visiting. Second, this rule permits imposing no-contact visiting on inmates who have been found guilty of a violation of s. DOC 303.43 (possession of intoxicants), DOC 303.44 (possession of drug paraphernalia) or DOC 303.59 (use of intoxicants). Third, this rule permits no-contact visiting when a visitor has been found to have introduced contraband into any institution or engaged in other behavior which threatens security or interferes with the rights of others. And finally, this rule permits the establishment of no-contact visiting in segregation units.

The rule also establishes a process for imposing a no-contact visiting restriction which is parallel to the one for suspending visitation. The rule provides that for a 6 month or less penalty, an inmate may appeal to the superintendent or warden. For penalties of more than 6 months, the inmate may appeal to the superintendent or warden and thereafter to the division administrator.

The rule also establishes a process for imposing the

restriction on specific visitors due to their conduct. This process again parallels the one established for suspension of visitation.

This rule permits imposing a penalty which is less severe than a suspension or termination of visiting privileges. No-contact visiting restriction balances the needs of an inmate for the opportunity for visitation with the needs of the institution to maintain a safe and secure environment for inmates and staff.

TEXT OF RULE/FINAL FORM

SECTION 1. DOC 303.02(12m) is created to read:

DOC 303.02(12m) "No-contact visiting" means visitation during which no physical contact is permitted between an inmate and a visitor.

SECTION 2. DOC 303.21(2) is renumbered DOC 303.21(3).

SECTION 3. DOC 303.21(2) is created to read:

DOC 303.21(2) An inmate who plans or agrees with a noninmate to do acts which are forbidden under this chapter is guilty of an offense.

SECTION 4. DOC 303.63(1)(a), DOC 303.68(6), DOC 303.69(4), DOC 303.70(4), DOC 303.71(4), DOC 303.72(4), and DOC 303.74(5)(b) are amended to read:

DOC 303.63(1)(a) Visiting, including no-contact visiting;

DOC 303.68(6) Any alleged violation of a rule which may result in a suspension of visiting or correspondence privileges, work or study release, or leave or which may result in imposition of no-contact visiting shall be treated as a major offense, although the inmate may waive this.

DOC 303.69(4) VISITS AND TELEPHONE CALLS. Inmates in adjustment segregation shall be permitted visitation, including no-contact visiting, and telephone calls in accordance with ch. DOC 309.

DOC 303.70(4) VISITS AND TELEPHONE CALLS. Inmates in program segregation shall be permitted visitation, including no-contact visiting, and telephone calls in accordance with ch. DOC 309.

DOC 303.71(4) VISITS. Inmates in controlled segregation may not receive visits, including no-contact visits, except from their attorney or with permission from the security director.

DOC 303.72(4) LOSS OF A SPECIFIC PRIVILEGE. Specific privileges which may be lost if abused include but are not limited to: use of inmate's own TV, radio or cassette player; phone calls; participation in off grounds activities; having meals in the dining room; and canteen privileges. These privileges may be taken away for up to 30 days for the first offense, for up to 60 days for the second, and permanently for the third. However, visiting and mail may be suspended for periods of time in accordance with ss. DOC 309.05 and 309.17. No-contact visiting may be imposed in accordance with ss. DOC 309.16 and 309.165.

DOC 303.74(5)(b) Loss of a specific privilege for 1 to 15 days, except visits, including no-contact visiting, and mail.

SECTION 5. DOC 303.84(1)(f), (g), (h), (i), and (j) are renumbered (g), (h), (i), (j) and (k), respectively.

SECTION 6. DOC 303.84(1)(e) is amended to read:

DOC 303.84(1)(e) Loss of a specific privilege for 1 to 30 days for the first offense, for 1 to 60 days for the second offense and permanently for the third, ~~and mail and visiting privileges as provided in the departmental rules relating to mail and visiting,~~

SECTION 7. DOC 303.84(1)(f) is created to read:

DOC 303.84(1)(f) Mail and visiting privileges and no-contact visiting as provided in the departmental rules relating to mail, visiting and no-contact visiting.

SECTION 8. DOC 309.02(2m) and (8m) are created to read:

DOC 309.02(2m) "Contraband" has the meaning given in s. DOC 303.10(1).

DOC 309.02(8m) "No-contact visiting" has the meaning given in s. DOC 303.02(12m).

SECTION 9. DOC 309.11(2) is amended to read:

DOC 309.11(2) Except as provided in DOC 309.16 and 309.165, Inmates inmates and their visitors are permitted to embrace and kiss at the beginning and end of each visit. Inmates may hold their children. Inmates should otherwise conduct themselves in a discreet manner.

SECTION 10. DOC 309.12⁽⁴⁾(2)(e) ^(Intro.) and DOC 309.12(3) are amended to read:

DOC 309.12(2)(e) In determining whether a person should be approved for visiting, including no-contact visiting, a proposed visitor may

be disapproved for visiting or approved for no-contact visiting only if one or more of the following criteria exist:

DOC 309.12(3) An inmate's approved visiting list shall show the name and address of all visitors, relationship, date of birth, the date the person was approved for visiting, and any denial or restriction of visitation privileges, including imposition of no-contact visiting.

SECTION 11. DOC 309.12(8m) is created to read:

DOC 309.12(8m) If a potential visitor is approved only for no-contact visiting, the inmate and the visitor shall be informed of the reasons for the decision in writing. The proposed visitor can object to this decision by appealing to the superintendent. A record of the decision imposing no-contact visiting shall be kept. An inmate may appeal the decision.

SECTION 12. DOC 309.13(1)(g) and (h) are amended to read:

DOC 309.13(1)(g) Items that may be brought into the institution during the visit; ~~and~~

(h) The place of visits; and

SECTION 13. DOC 309.13(1)(i) is created to read:

DOC 309.13(1)(i) No-contact visiting.

SECTION 14. DOC 309.16(3m) is created to read:

DOC 309.16(3m) The superintendent may impose no-contact visiting

in segregation units for security reasons.

SECTION 15. DOC 309.16(4)(g) and (h) are amended to read:

DOC 309.16(4)(g) Items that may be brought into an institution during a visit; ~~and~~

(h) The place of visits; and

SECTION 16. DOC 309.16(4)(i) is created to read:

DOC 309.16(4)(i) No-contact visiting.

SECTION 17. DOC 309.165 is created to read:

DOC 309.165 NO-CONTACT VISITING. (1) The security director or adjustment committee may impose no-contact visiting for security reasons when any of the following occur: (a) An inmate is found guilty of any of the following: 1. A violation of the administrative rules or institution policies or procedures relating to visiting; or

2. A violation of s. DOC 303.43, possession of intoxicants, DOC 303.44, possession of drug paraphernalia, or DOC 303.59, use of intoxicants;

(b) A visitor is found to have introduced contraband into any institution or engaged in other behavior that threatens security or interferes with the rights of others; or

(c) An inmate is in temporary lockup, observation, voluntary confinement, adjustment segregation, program segregation, control segregation, or administrative confinement.

(2) If no-contact visiting is imposed on an inmate, it may apply to all visitors of the inmate.

(3) If no-contact visiting is imposed on a visitor, it applies to all visits of the visitor.

(4) If an inmate is alleged to have violated these rules or institution policies or procedures relating to visiting or s. DOC 303.43, DOC 303.44 or DOC 303.59, a conduct report shall be written and disposed of in accordance with the rules providing for disciplinary procedures for major offenses. For a violation, the penalty may include imposition of no-contact visiting for up to one year for all visitors or for a specific visitor and any other penalty provided in the disciplinary rules, subject to the following:

(a) No-contact visiting may be imposed for 6 months or less by the adjustment committee and appealed to the superintendent.

(b) No-contact visiting may be imposed for more than 6 months by the adjustment committee and may be appealed to the superintendent and thereafter to the division administrator.

(c) With the approval of the division administrator, no-contact visiting may be imposed for more than one year. When no-contact visiting is imposed for more than one year, there may be a reapplication for contact visiting to the security director no less than one year after the imposition of no-contact visiting and every 90 days thereafter.

(5) If during a visit a visitor is alleged to have violated these sections or institution policies and procedures relating to visits,

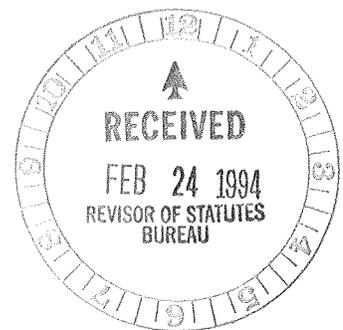
the security director shall investigate and decide if a violation occurred. If a violation occurred, the security director may imposed no-contact visiting restrictions with that visitor. No-contact visiting restrictions may be appealed in accordance with sub. (4). The visitor and inmate shall be informed of the restriction promptly in writing and the reasons for it.

(6) No-contact visiting under sub. (1)(c) may be imposed for the period of time the inmate is in temporary lockup, observation, voluntary confinement, adjustment segregation, program segregation, control segregation, or administrative confinement.

EFFECTIVE DATE

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro), Stats.

Dated: 2/24/94 Agency: Michael J. Sullivan
Michael J. Sullivan, Secretary
Department of Corrections



Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary

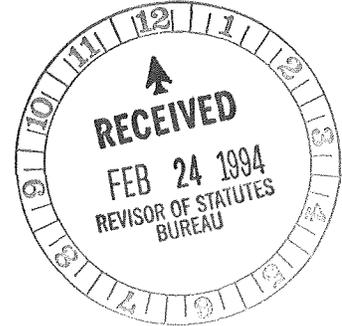


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Telephone (608) 266-2471

State of Wisconsin
Department of Corrections

February 24, 1994

Mr. Bruce E. Munson
Revisor of Statutes
131 West Wilson Street, Suite 800
Madison, Wisconsin 53703-3233



Re: Clearinghouse Rule 93-102

Dear Mr. Munson:

As provided in s. 227.20, Stats., enclosed for filing is a certified copy of Clearinghouse Rule 93-102, which is a rule relating to establishing a policy of no-contact visiting for inmates under limited circumstances. An uncertified copy is also enclosed.

This rule is also being filed with the Secretary of State as provided in s. 227.20, Stats.

Sincerely,

Handwritten signature of Michael J. Sullivan in cursive.
Michael J. Sullivan
Secretary

Enclosures