

CR 94-177

CERTIFICATE

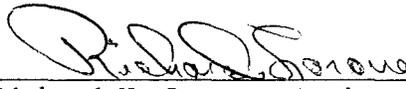
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Richard W. Lorang, Acting 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 county-operated intensive supervision programs for delinquent youths were duly approved and adopted by this Department on March 9, 1995.

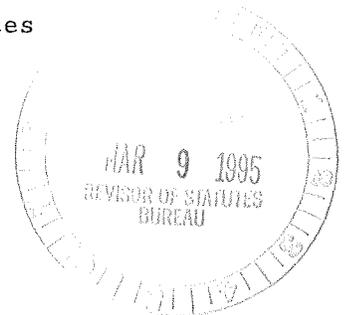
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

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 9th day of March, 1995.

SEAL:



Richard W. Lorang, Acting Secretary
Department of Health and Social Services



**ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
CREATING RULES**



To create chapter HSS 348, relating to an intensive supervision program for delinquent youth.

Analysis Prepared by the Department of Health and Social Services

Youth who have been adjudicated delinquent may, under s. 48.34 (2r), Stats., as created by 1993 Wisconsin Act 16, be ordered to participate in an intensive supervision program. Section 48.534 (2), Stats., as created by 1993 Wisconsin Act 16, directed the Department to promulgate rules specifying the requirements for the program, and s. 48.534 (3), Stats., as created by 1993 Wisconsin Act 98, directed the Department to award \$100,000 in grants in fiscal year 1994-95 to county departments of social services and human services to provide the programs.

Rules are necessary to ensure that the program is implemented with appropriate quality standards and safeguards, as well as to distribute funds to counties for program development. In order to distribute funds to counties for the program as quickly as possible and because the program is in the best interests of youth who might otherwise be institutionalized, the Department promulgated the rules as emergency rules on September 10, 1994. These are the permanent rules to replace the emergency rules.

The rules cover establishment of a program by a county department; program requirements, including a referral and screening process and specific components; consequences for a youth who violates a rule or condition of program participation, including specific requirements for temporary use of secure detention; a youth's right to a hearing if secure detention is to be continued for more than 72 hours; and duration of a youth's program involvement in the intensive supervision program.

The Department's authority to create these rules is found in s. 48.534 (2), Stats., as created by 1993 Wisconsin Act 16. The rules interpret s. 48.534, as created by 1993 Wisconsin Act 16.

SECTION 1. Chapter HSS 348 is created to read:

Chapter HSS 348

YOUTH INTENSIVE SUPERVISION PROGRAM

- HSS 348.01 Authority and Purpose
- HSS 348.02 Applicability
- HSS 348.03 Definitions
- HSS 348.04 Program Requirements
- HSS 348.05 Placement in Secure Detention
- HSS 348.06 Continuation in Secure Detention
- HSS 348.07 Duration of Program

HSS 348.01 AUTHORITY AND PURPOSE. (1) This chapter is promulgated under the authority of s. 48.534 (2), Stats., to provide rules specifying the requirements for an intensive supervision program for youth who have been ordered by a court under s. 48.34 (2r), Stats., as a delinquency disposition, to participate in an intensive supervision program.

(2) Through this chapter the department seeks to achieve the following goals:

- (a) Provide a community-based dispositional option for youth who have been adjudicated delinquent and who face potential out-of-home placement;
- (b) Maintain public safety and youth accountability through supervision and sanctions appropriate to the needs and requirements of the youth in the program;
- (c) Provide the necessary treatment, services, discipline and supervision to help the youth in the program and youth's family make meaningful, positive changes in their lives;
- (d) A crime-free lifestyle for youth in the program; and
- (e) Participation of every youth in education or vocational training or employment.

HSS 348.02 APPLICABILITY. This chapter applies to the department, county departments under s. 46.26 (2), Stats., and children who have been adjudicated delinquent and ordered under s. 48.34 (2r), Stats., to participate in an intensive supervision program.

HSS 348.03 DEFINITIONS. In this chapter:

- (1) "Caseworker" means the staff member of a county department or a contract agency, or a volunteer, identified in a youth's case plan as the person responsible for contact with the youth in the intensive supervision program.

(2) "Collateral contacts" means contacts with persons or agencies, other than ISP staff, involved in a youth's life such as school personnel, employers, therapists and relatives.

(3) "County department" means the county department under s.46.26(2), Stats.

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

(5) "Division" means the department's division of youth services.

(6) "Electronic monitoring device" means an electronic device used to monitor the youth's location during the specified periods of time each day that the youth is required to be at his or her place of residence or at another approved location.

(7) "Intensive supervision" means a community based comprehensive program providing a youth and the youth's family with the treatment and services necessary for holding the youth accountable and preventing institutional placement.

(8) "Intensive surveillance" means monitoring a youth's activities through frequent face-to-face contacts and collateral contacts and may include electronic monitoring.

(9) "ISP" or "intensive supervision program" means the program under s. 48.534, Stats, that provides intensive surveillance and community-based treatment services for youth and their families.

(10) "Lead caseworker" means a county department staff member responsible for the case plan, case management and decision making and the majority of the face-to-face contacts for a youth in the intensive supervision program.

(11) "Parent" means either a biological or adoptive parent or a legal guardian.

(12) "Program" means the intensive supervision program under s. 48.534, Stats.

(13) "Sanctions" means the range of actions that may be taken by the lead caseworker when a youth fails to cooperate with ISP rules and conditions.

(14) "Secure detention facility" means a locked facility approved by the department of corrections under s. 301.36, Stats., for the secure, temporary holding in custody of children.

(15) "Written statement" means the written documentation which may be used in lieu of a petition for the hearing under s. 48.21, Stats., if a youth is to be detained longer than 72 hours.

(16) "Youth" means a child who has been adjudicated delinquent and ordered to participate in the intensive supervision program.

HSS 348.04 PROGRAM REQUIREMENTS. (1) **GENERAL.** A county department electing to provide or purchase an intensive supervision program shall meet the requirements in this section.

(2) **REFERRAL AND SCREENING PROCESS.** (a) A county department shall develop a written referral and screening process for youth for whom the ISP is being recommended to the court under s. 48.33, Stats. This process shall include criteria for participation which include but are not limited to:

1. The youth would not likely present a physical danger to self or to others if living in the community;
2. A suitable living arrangement within the community is available to the youth;
3. The youth and the youth's family or other adult with whom the youth will reside indicate that they are willing to participate in the ISP and comply with the rules and conditions of the program; and
4. The treatment and service needs of the youth can be met in the community.

(b) Screening and referral shall take place before the county department makes a recommendation to the court under 48.33, Stats., except when a youth is ordered by the court into the ISP without a recommendation by the county department.

(3) **PARTICIPANT RIGHTS.** A county department shall make reasonable efforts to ensure that a youth, while participating in the program:

(a) Is free from discrimination based on race or ethnicity, color, religion, sex, national origin or any other category protected by federal or state law while receiving program services;

(b) Is provided with accessible and usable services, and any reasonable accommodations or auxiliary aids and services needed to benefit from treatment and other programs;

(c) Is provided with translators if his or her ability to speak, understand, read or write English is limited;

(d) Is protected from abuse or neglect by program service providers;

(e) Is involved in planning for his or her treatment;

(f) Has access to the courts;

(g) May visit, use the mail and communicate with family members and an attorney within reasonable guidelines while in secure detention or other out-of-home placement;

(h) Has access to county department and community programs and services consistent with the protection of the public;

(i) Has his or her educational, vocational, drug or alcohol abuse, mental health and other treatment needs addressed by the ISP case plan; and

(j) May participate in authorized recreational, leisure time and religious activities.

(4) STATEMENT DESCRIBING GOALS, SERVICES AND CASE PLAN COMPONENTS. (a) Required written description. A county department shall develop a written description of its ISP which shall include identification of goals, assurances of service availability and specification of case plan components.

(b) Program goals. Goals shall be identified based on assessed strengths and needs of the youth in the program and their families and may include, but are not limited to, the reduction of recidivism, increased participation in educational or vocational programming, participation in treatment and prevention of a more restrictive placement.

(c) Services. 1. The written description shall include assurances that an individual youth and the youth's family will receive the following services, if needed:

a. School tutoring and other educational services;

b. Vocational training and counseling,

c. Alcohol and other drug abuse (AODA) outpatient treatment and education. Programs used to treat alcohol or drug abuse by youth shall be certified by the department under ch. HSS 61;

d. Family-focused services and family counseling;

e. Employment services;

f. Recreational opportunities; and

g. Assistance with independent living skills and arrangements.

2. The written description shall address the availability and accessibility of other community services that a youth and the youth's family may need, such as:

- a. Day treatment or alternative school programs;
- b. Restitution programs;
- c. Interpersonal skills training;
- d. Discipline training including anger and impulse control;
- e. Problem-solving and decision-making skills training for youth;
- f. Training for parents, including discipline management skills, communication skills and interpersonal skills; and
- g. Health-related care.

3. The written description shall identify the manner in which a youth and the youth's family in need of various services will obtain or have access to each of those services.

(d) Case plan. The written description shall provide assurances that a case plan will be developed for each youth and family and filed with the court within 30 days of the dispositional order.

(5) **CASE PLAN REQUIREMENTS.** Each youth in an ISP shall have a case plan which specifies the following:

- (a) The goals for the youth and family for the time the youth is in the ISP;
- (b) The community-based treatment services and educational, vocational, employment and other programs that are expected to be used to meet the needs of the youth and family;
- (c) The number and frequency of supervisory contacts that the youth shall receive;
- (d) The estimated length of time the youth and family will participate in the program;
- (e) The rules and conditions of the youth's participation in the program, including but not limited to the following:

- 1. Avoidance of any conduct that violates a federal, state or municipal law;

2. Reporting any contact with the police to ISP staff within 12 hours;
3. Reporting any arrest or citation to ISP staff immediately;
4. Cooperating with ISP staff and fully participating in all aspects of the case plan;
5. Following all curfews established by ISP staff;
6. Attending all scheduled educational and vocational programs;
7. Following his or her daily appointment schedule with ISP staff;
8. Obtaining advance permission from the lead caseworker to travel outside the state of Wisconsin;
9. Cooperating with electronic monitoring procedures and refraining from altering, damaging or interfering in any way with the operation of the electronic monitoring equipment;
10. Refraining from using or possessing any drug listed in subch. II of ch. 161, Stats., any drug paraphernalia as defined in s. 161.571, Stats., and any prescription drugs except those prescribed for the youth by a licensed health care provider;
11. Refraining from purchasing, owning, carrying or possessing a firearm, knife or other weapon, or ammunition, without the advance permission of ISP caseworker. The ISP caseworker may not grant a youth permission to possess a firearm if the youth is prohibited from possessing a firearm under s. 941.29, Stats., or federal law;
12. Agreeing to submit to any test ordered by the ISP caseworker that is permitted under the law, including but not limited to urinalysis, breathalyzer and blood tests under s. 346.63, Stats.; and
13. Following any special rules issued by ISP staff, including but not limited to rules relating to: companions; medical and dental appointments; counseling, therapy or other mental health appointments; family responsibilities; court-ordered restitution; participation in community service; educational and vocational programs; job seeking and job attendance; purchasing, trading, selling or operating a motor vehicle; and borrowing money or making a purchase on credit;

(f) The consequences for violation of a rule or condition, which may include but are not limited to:

1. A warning;

2. Change in one or more of the rules or provisions of the youth's case plan;
3. Taking the youth into custody under s. 48.19(1) (d) (6), Stats., and placing the youth in non-secure custody under s. 48.205 Stats.;
4. Taking the youth into custody and placing the youth in a secure detention facility for not more than 72 hours under the formal sanction procedures under s. HSS 348.05; or
5. Requesting revision of the dispositional order under ss. 48.363 and 48.357, Stats; and

(g) A statement signed by a youth and the youth's parent or parents that the plan has been discussed with the youth and the parent or parents and that they understand the content, conditions, consequences and sanctions delineated in the plan.

(6) **CASELOAD REQUIREMENTS.** (a) Lead caseworker. A lead caseworker shall be designated for each youth participating in the ISP. That lead caseworker is responsible for developing and monitoring the case plan under sub. (5), any decision to take the child into custody under s. HSS 348.05 and the majority, more than 50%, of the face-to-face contacts.

(b) Limited caseload. A lead caseworker assigned to the ISP full time shall have a caseload of no more than 10 clients. A lead caseworker assigned to the program part time shall have a partial caseload proportionate to the one to 10 ratio.

(c) Face-to-face contacts. 1. Each participant in the program, except when being held in secure detention, shall receive at least one face-to-face contact per day with a caseworker and the participant's activities shall be monitored through the use of intensive surveillance.

2. Face-to-face contacts shall be of a planned and purposeful nature to include monitoring behavior, compliance with rules, problem solving or skills training.

3. Daily contacts, although not necessarily face-to-face contacts, shall continue when the youth is held in secure detention under s. HSS 348.05 or s. HSS 348.06.

(d) Contacts with others. The lead caseworker shall have at least one contact every week with a youth's parent or caregiver and one contact every week with the educational or vocational service provider for each youth participating in the ISP.

(e) Multiple caseworkers. Caseworkers other than the lead caseworker may be designated by the case plan to make daily face-to-face contacts with a youth, as required by par. (c), if the following conditions are met:

1. The case plan for the youth identifies the designated persons and the frequency of contacts of each of these persons;
2. The contract or written working agreement with agencies providing related services delineates the responsibilities and requirements for supervision of the youth; and
3. The lead caseworker communicates weekly with the other caseworkers supervising the youth regarding pertinent information relating to contacts with the youth and other people involved with the youth during the past week. A daily log shall be maintained for each youth. Every 30 days the information from the log shall be summarized in the case record.

(f) Designee. An alternate lead caseworker or supervisor may be designated to make secure detention decisions when the lead caseworker assigned to the youth is unavailable.

HSS 348.05 PLACEMENT IN SECURE DETENTION. (1) AUTHORITY.

Notwithstanding ss. 48.19 to 48.21, Stats., if a youth violates a rule or condition of the youth's participation in the ISP, the youth's lead caseworker may, without a hearing, take the youth into custody and place the youth in a secure detention facility for not more than 72 hours as a sanction for that violation, if at the dispositional hearing the court explained those conditions to the youth and informed the youth of the possibility of that sanction.

(2) **DECISION MAKING.** (a) In deciding whether to make use of secure detention as a sanction for violation of a rule or condition, the lead caseworker shall consider less restrictive alternatives, including but not limited to:

1. Counseling and warning the youth;
2. Changing one or more of the rules or provisions of the youth's case plan;
3. Using a non-secure placement; or
4. Requesting revision of the dispositional order under s. 48.363, Stats.

(b) In reviewing the alternatives, the lead caseworker shall consider:

1. The severity of the violation;
2. The number and severity of past violations;
3. The prior response by the youth to consequences;
4. Ability and willingness of the youth's caretaker to supervise the youth;

5. Future case planning; and
6. The availability of a secure detention bed.

(3) **INFORMING AND TRANSPORTING THE YOUTH.** (a) The lead caseworker making the decision to place a youth in a secure detention facility shall immediately inform the youth and the youth's parent or parents or caretaker of the decision to place the youth in a secure detention facility and the reason for that decision.

(b) The lead caseworker shall make arrangements for transporting and admitting the youth to the secure detention facility pursuant to county department policy.

(c) The youth may request to speak with the lead caseworker's supervisor if the youth disagrees with the sanction. That request shall be granted within 24 hours, exclusive of Saturdays, Sundays and legal holidays. A youth's request to speak with a supervisor does not by itself reverse or delay the decision to proceed with the sanction. During the conversation with the lead caseworker's supervisor, the youth shall be allowed to make a statement as to why the youth believes this sanction is inappropriate.

(4) **RECORD.** The lead caseworker shall prepare documentation for the youth's case record and the court on placement of the youth in a secure detention facility. The documentation shall include all of the following:

- (a) The name of the youth;
- (b) The condition or rule violated by the youth and the date it was violated;
- (c) The names of persons who observed or have knowledge of the violation;
- (d) The options considered as alternatives to secure detention and the reasons for rejecting these options;
- (e) The date and time that the parent or caregiver was notified of the detention;
- (f) The date and the time period for which the youth was detained in secure detention;
- (g) The youth's conduct during the period of the sanction; and
- (h) Changes made in the youth's case plan as a result of the violation by the youth.

HSS 348.06 CONTINUATION IN SECURE DETENTION. (1) **RIGHT TO HEARING.** A youth continued in a secure detention facility for more than 72 hours,

regardless of whether the continued detention is for a new or additional violation, is entitled to a hearing under s. 48.21, Stats.

(2) **HEARING.** The hearing shall be conducted in the manner provided in s. 48.21, Stats., except that the hearing shall be conducted within 72 hours, rather than 24 hours, after the time that the initial decision to hold the youth was made, exclusive of Saturdays, Sundays and legal holidays. A written statement of the reasons for continuing to hold the youth in custody may be filed in lieu of a petition under s. 48.25, Stats.

HSS 348.07 DURATION OF PROGRAM. A youth ordered to participate in an ISP may be released from the program in any of the following ways:

(1) The original dispositional order specifies that the participation in the program is time-limited in duration, and that time period has expired;

(2) The original dispositional order is revised pursuant to 48.363, and 48.357, Stats;

(3) The original dispositional order expires; or

(4) A subsequent dispositional order is entered which would preclude the youth from participating in the program, such as placement in another county or transfer of legal custody to the department for placement in a secured correctional facility.

The 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: March 9, 1995

By: 
Richard W. Lorang
Acting Secretary 

SEAL:

