

**STATEMENT OF SCOPE
PAROLE COMMISSION**

This revised statement of scope modifies Statement of Scope # SS 017-11, which was published in Register No. 669A on September 14, 2011.

Rule Number:

Relating to: Ch. PAC 1, Parole Procedure

Rule Type: Permanent

1. DETAILED DESCRIPTION OF THE OBJECTIVE OF THE PROPOSED RULE.

The objective is to update the rule chapter to bring it into compliance with 2011 Wisconsin Act 38 and to update the parole process and release criteria used by the parole commission.

2. DESCRIPTION OF EXISTING POLICIES AND NEW POLICIES INCLUDED IN PROPOSED RULE AND AN ANALYSIS OF POLICY ALTERNATIVES.

The parole commission revised chapter PAC 1 in 2010 because the legislature enacted 2009 Wisconsin Act 28 which addressed sentence modification. The legislature subsequently repealed most of the provisions of Act 28 by enacting 2011 Wisconsin Act 38. This rule modification is necessary to bring the rule chapter into compliance with Act 38. The procedures and release criteria outlined in the existing rule have not been reviewed for many years and this rule modification will update the parole procedures and release criteria.

3. STATUTORY AUTHORITY.

Section 227.11 (2) (a) – (c): Rule-making authority is expressly conferred on an agency as follows:

- (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
 1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
 2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.
- (b) Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.
- (c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating the policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 304.06 (1) (e): The parole commission shall permit any office or person under par. (c) 1. to 3. to provide written statements. The parole commission shall give consideration to any written statements provided by any such office or person and received on or before the date specified in the notice. This paragraph does not limit the authority of the parole commission to consider other statements or information that it receives in a timely fashion.

Section 304.06 (1) (em): The parole commission shall promulgate rules that provide a procedure to allow any person who is a victim, or a family member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2), or (3), 948.02 (1) or (2), 948.025, 948.06, or 948.07 to have direct input in the decision-making process for parole.

4. ESTIMATE OF AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OTHER RESOURCES NECESSARY TO DEVELOP THE RULE.

Department staff will devote approximately 200 hours promulgating the rule. This includes time required for investigation and analysis, rule drafting, and preparing related documents. The department anticipates that it will use existing staff to develop this rule.

5. LIST WITH DESCRIPTION OF ALL ENTITIES THAT MAY BE AFFECTED BY THE PROPOSED RULE.

Rule revisions will primarily affect Wisconsin inmates, victims, courts, attorneys, the public, and department staff.

6. SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE.

There are no federal regulations which address the issue of parole grants for Wisconsin inmates.

7. ANTICIPATED ECONOMIC IMPACT OF IMPLEMENTING THE RULE. NOTE IF THE RULE IS LIKELY TO HAVE AN ECONOMIC IMPACT ON SMALL BUSINESSES.

The commission anticipates that the proposed rule will have minimal to no economic impact statewide or locally.

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