



**REPORT FROM AGENCY  
PUBLIC NOTICE  
NOTICE OF SUBMITTAL OF RULE TO LEGISLATURE**

On July 11<sup>th</sup>, 2023, the Department of Corrections submitted CR 21-104, a proposed rule in final draft form, to the chief clerk of each house of the legislature. On November 8<sup>th</sup>, 2023, the Department of Corrections recalled the rule pursuant to s. 227.19(4)(b)4. With this Notice, the Department of Corrections is resubmitting CR 21-104, a proposed rule with germane modifications, to the chief clerk of each house of the legislature pursuant to s. 227.19(4)(b) 2 & 4. The germane modifications specifically include not repealing Wis. Admin Code § DOC 328.04(3)(e) and (o).

The statement of scope for this rule was approved by the Governor on December 18<sup>th</sup>, 2020, published as Scope Statement No. SS 005-21 in Register No. 781A2 on January 11<sup>th</sup>, 2021, and approved by former Secretary Kevin A. Carr on March 1<sup>st</sup>, 2021.

**SUBJECT:** Modifications to Chapter DOC 328.

**CLEARINGHOUSE RULE #:** 21-104

**ADM. CODE REFERENCE:** Chapter DOC 328

**APPROVED BY GOVERNOR:** July 10<sup>th</sup>, 2023

Dated this \_\_\_th day of December, 2023

**STATE OF WISCONSIN  
DEPARTMENT OF CORRECTIONS**

By \_\_\_\_\_  
Kevin A. Carr, Secretary  
Department of Corrections

**WISCONSIN DEPARTMENT OF CORRECTIONS  
PROPOSED RULE MAKING ORDER**

**INTRODUCTORY CLAUSE**

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The statement of scope for this rule was approved by the Governor on December 18, 2020, published as Scope Statement No. SS 005-21 in Register No. 781A2 on January 11, 2021, and approved by Secretary Kevin Carr on March 1, 2021.

The Wisconsin Department of Corrections proposes an order **to repeal** DOC 328.04(3)(j) and (k) and **to repeal and recreate** DOC 328.04(3)(d).

**RULE SUMMARY**

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**1. Statutes interpreted:**

ss. 6.03, 165.76, 301.001, 301.03, 302.113(10), 302.114(10), 302.117, 939.615(5)(a), 973.01(5), 973.09(1), 973.10 Stats.

**2. Statutory authority to promulgate the rule:** The department is directed by Wisconsin Statute § 301.03(3) to “administer parole, extended supervision, and probation matters.”

**3. Explanation of agency authority: Section 227.11 (2) (a) – (e):** 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 non-statutory 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.

(d) An agency may promulgate rules implementing or interpreting a statute that it will enforce or administer after publication of the statute but prior to the statute's effective date. A rule promulgated under this paragraph may not take effect prior to the effective date of the statute that it implements or interprets.

(e) An agency may not inform a member of the public in writing that a rule is or will be in effect unless the rule has been filed under s. 227.20 or unless the member of the public requests that information.

**Section 301.03 (3):** Administer parole, extended supervision, and probation matters, except that the decision to grant or deny parole to inmates shall be made by the parole commission and the decision to revoke probation, extended supervision, or parole, in cases in which there is no waiver of the right to a hearing, shall be made by the division of hearings and appeals in the department of administration. The secretary may grant special action parole releases under s. 304.02. The department shall promulgate rules to [effectuate short-term sanctions].

**Section 301.03 (7m):** Supervise criminal defendants accepted into the custody of the department under s. 969.02 (3) (a) or 969.03 (1) (a). The department shall charge the county that is prosecuting the defendant a fee for providing this supervision. The department shall set the fee by rule.

**Section 302.113 (10):** The department may promulgate rules establishing guidelines and criteria for the exercise of discretion under this section [release to extended supervision for felony offenders not serving life sentences].

**Section 302.114 (10):** The department may promulgate rules establishing guidelines and criteria for the exercise of discretion under this section [petition for release and release to extended supervision for felony offenders serving life sentences].

**Section 302.19:** Temporary detention of inmates: The department may use any of its facilities for the temporary detention of persons in its custody.

**Section 302.31 (5) and (6):** The county jail may be used for any of the following purposes:

....

(5) The detention of persons participating in the intensive sanctions program.

(6) The temporary detention of persons in the custody of the department.

**Section 939.615 (5) (a):** A person placed on lifetime supervision under this section [lifetime supervision of serious sex offenders] is subject to the control of the department under conditions set by the court and regulations established by the department that are necessary to protect the public and promote the rehabilitation of the person placed on lifetime supervision.

**Section 973.01 (2) (intro):** Structure of bifurcated sentences. A bifurcated sentence is a sentence that consists of a term of confinement in prison followed by a term of extended supervision under s. 302.113. The total length of a bifurcated sentence equals the length of the term of confinement in prison plus the length of the term of extended supervision. An order imposing a bifurcated sentence under this section shall comply with all of the following:

**Section 973.10:** Control and supervision of probationers. (1) Imposition of probation shall have the effect of placing the defendant in the custody of the department and shall subject the defendant to the control of the department under conditions set by the court and rules and regulations established by the department for the supervision of probationers, parolees and persons on extended supervision.

**4. Related statute or rule:** Wisconsin Statute § 301.03(3) and Wisconsin Administrative Code Chapter 331.

**5. Plain language analysis:** This proposed rulemaking order updates DOC 328 to reflect changes in best practices for community supervision that promote better outcomes for people on supervision, their families and communities by repealing DOC 328.04(3)(e), (j), (k) and (o) and repealing and recreating DOC 328.04(3)(d). Currently, offenders on community supervision must comply with several standard rules including avoiding all conduct in violation in federal or state statute, municipal or county ordinances, or tribal law and paying court ordered financial obligations and other fees as required.

Additionally, informing their agent of whereabouts and activities as directed, obtaining permission from an agent prior to the purchase, trade, sale or operation of a motor vehicle, obtaining permission from an agent prior to borrowing money or purchasing on credit and abiding by all rules of any detention or correctional facility are some of the current standard rules of community supervision. In this proposed rulemaking order, these four standard rules of community supervision, DOC 328.04(3)(e), (j), (k) and (o), are repealed. These standard rules are being repealed as they are onerous and outdated.

It is also a current standard rule of community supervision that offenders must make every effort to accept opportunities and counseling offered by the department. This includes authorizing the exchange of information between the department and any court ordered or agent directed program and subsequent disclosure to any parties deemed necessary by the agent to achieve the purposes of this chapter DOC 328 and 331. This proposed rulemaking order repeals and recreates DOC 328.04(3)(d) to require offenders to make every effort to accept programming offered by the department. This rule is being amended to increase its clarity and assist with increasing offender compliance.

**6. Summary of, and comparison with, existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule:** There are no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

**7. Comparison with similar rules in adjacent states:**

All adjacent states have standard rules of community supervision and the adjacent states generally have similar standard rules of community supervision to Wisconsin. Wisconsin's proposed standard rules of community supervision include avoiding conduct in violation of the law and conduct not in the best interest of the public welfare or the offender's rehabilitation, reporting arrests, cooperating with programming, submitting to searches, obtaining permission from an agent prior to changing residence, changing employing, traveling out of state or purchasing, possessing, owning or carrying certain items, paying court ordered fees, reporting to an agent and submitting a biological specimen for testing when ordered by a court.

a. **Illinois:** Illinois Statute provides conditions for every parole and mandatory supervised release. These conditions include: not violating any criminal statute of any jurisdiction, reporting all arrests to an agent no later than 24 hours after release for custody and immediately reporting service or notification of an order of protection, a civil no contact order, or a stalking no contact order, consenting to a search of his or her person, property, or residence under his or her control, obtaining permission of an agent before changing his or her residence or employment, obtaining permission of an agent before leaving Illinois, refraining from possessing a firearm or other dangerous weapon, reporting to an agent, providing true and accurate information as it relates to his or her adjustment in the community or to his or her conduct while incarcerated, and submitting to a urinalysis test as instructed by a parole agent. 730 ILCS 5/3-3-7(a).

There are additional conditions for every parole and mandatory supervised release relating to narcotics and other controlled substances, residence, and programming. There are several other conditions for every parole and mandatory supervised release if the subject has been convicted of

certain offenses, such as sex offenses. 730 ILCS 5/3-3-7(a)-(b-1).

Illinois Statute also provides the conditions of probation and of conditional discharge. 730 ILCS 5/5-6-3. The conditions of probation and conditional discharge include: not violating any criminal statute of any jurisdiction, refraining from possessing a firearm or other dangerous weapon and not leaving the state without the consent of the court. 730 ILCS 5/5-6-3. There are several additional conditions of probation if the subject has been convicted of certain offenses, such as sex offenses. 730 ILCS 5/5-6-3.

**b. Iowa:** Iowa Administrative Code provides the standard conditions of parole. The standard conditions of parole include: not changing residence unless prior approval is received from the supervising judicial district director or director's designee, not leaving the county of residence unless prior permission to travel is received from the parolee's supervising judicial district director or director's designee, maintaining contact with the supervising officer, not lying to, misleading, or misinforming the parolee's supervising officer either by statement or omission of information, participating and cooperating with any treatment, rehabilitation, or monitoring programs, obeying all laws and ordinances, notifying a parole officer within 24 hours if the parolee is arrested or receives a citation or if the parolee has any contact with law enforcement, receiving approval by the supervising officer prior to owning, possessing, using, or transporting firearms, dangerous weapons, or imitations thereof, paying any fees ordered by the court, and notifying the supervising officer within 24 hours if the parolee's employment is terminated. 201 IAC 45.2(1). Additional special conditions may be imposed at any time. 201 IAC 45.2(2).

Per Iowa Administrative Code, the district department shall establish conditions of probation which meet the approval of the chief judge of the judicial district, which apply to each person under probation supervision. 201 IAC 42.1(12). Therefore, the standard conditions of probation vary between different judicial districts.

In the 6<sup>th</sup> Judicial District, the standard conditions of probation include: obeying all laws, notifying a probation officer of any contact with law enforcement officials within 24 hours, submitting a written report of activities monthly or as often as the probation officer requires, securing permission from the probation officer before changing address, securing permission from the probation officer before changing or quitting a job, consenting to searches by any probation officer having reasonable grounds to believe contraband is present, submitting to urinalysis or breathalyzer testing upon request of a probation officer or official designee, actively cooperating in any evaluations, treatments, rehabilitation or monitoring programs, securing written permission from the probation officer before traveling outside Iowa, paying restitution, court-appointed attorney fees, court costs, surcharge and fines as ordered by the Court, not lying to, misleading or misinforming the probation officer, and not possessing, using, or transporting a firearm or other dangerous weapon if convicted of certain offenses. 6<sup>th</sup> Judicial District Policy 0402A-17.

Additional standard conditions of probation in the 6<sup>th</sup> Judicial District include not using or possessing illegal drugs or drug paraphernalia, abstaining from or limiting the use of alcoholic beverages, treating all persons with respect and courtesy, and not operating a motor vehicle without a valid driver's license or permit. 6<sup>th</sup> Judicial District Policy 0402A-17.

**c. Michigan:** Per Michigan Administrative Code, each order of parole shall set the parole term and shall contain conditions of parole that are reasonably necessary to assist a parolee to lead a law-abiding life. Mich. Admin. Code R 791.7730(1). An order of parole includes the following

conditions: payment of restitution, payment of a parole oversight fee and payment of any assessment. Mich. Admin. Code R 791.7730(3). Additional conditions may be included in the parole order and subsequent conditions may be added to the parole order upon approval by the chairperson of the parole board. Mich. Admin. Code R 791.7730(4).

Conditions of probation are set by the court that retains legal control over the probationer's status. Michigan Statute outlines the standard conditions of probation. These conditions include: not violating any criminal law of Michigan, the United States, or another state or any ordinance of any municipality, obtaining consent of the court before leaving the state, reporting to the probation officer monthly or as often as the probation officer requires, and paying any supervision fee, restitution, assessment or other minimum state cost. MCL 771.3(1).

d. **Minnesota:** Minnesota Administrative Rule defines the standard conditions of parole or supervised release. The standard conditions of parole or supervised release include: keeping the supervising agent informed of residence and activities, notifying the supervising agent within 24 hours if arrested, submitting reports as required by the supervising agent, refraining from purchasing or otherwise obtaining or having possession of any type of firearm or dangerous weapon, obtaining the written permission of the supervising agent prior to leaving the state, and obeying Minnesota Statutes. Minn. Admin. Code 2940.2000(2)-(10).

Per Minnesota Statute, any court may stay imposition or execution of sentence and may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. Minn. Stat. 609.135(1)(a)(2). For certain types of offenses, there are standard conditions of probation. For example, for criminal sexual assault in the second degree, if the court stays imposition or execution of sentence, the court must include the following as conditions of probation: incarceration in a local jail or workhouse, a requirement that the offender complete a treatment program and a requirement that the offender have no unsupervised contact with the complainant. Minn. Stat. 609.343(3). Another example includes the standard conditions of probation for felony conviction. These standard conditions, set by Minnesota Judicial Council policy, include: following all state and federal criminal laws, contacting the probation officer as directed, notifying the probation officer within 72 hours if there is any contact with law enforcement, notifying the probation officer within 72 hours if there is a charge for another crime, notifying the probation officer within 72 hours if there is a change in address, employment, or telephone number, cooperating with searches by the probation officer, providing a DNA sample when directed, not possessing any firearms, ammunition, or explosives and not registering to vote until discharged from probation. Minnesota Judicial Branch Policy 522.

**8. Summary of the factual data and analytical methodologies:** The Department of Corrections has determined that the rule will not have a significant economic impact on a substantial number of small businesses since the rule does not regulate small businesses as that term is defined in s. 227.114, Stats.

**9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:** Not applicable.

**10. Effect on small businesses:** Not applicable.

**11. A copy of any comments and opinion prepared by the Board of Veterans Affairs.** Not applicable.

**12. Agency contact person:** Caitlin Washburn, Administrative Rules Coordinator, 3099 East Washington Avenue, P.O. Box 7925, Madison, WI, 53707-7925; by phone: (608) 240-5020; or by email: DOCAdministrativeRulesCommittee@wisconsin.gov.

**13. Place where comments are to be submitted and deadline for submission:** Written comments on the

proposed rule will be accepted and receive consideration if they are received by January 12<sup>th</sup>, 2021. Written comments should be addressed to: Administrative Rules Committee, c/o Caitlin Washburn, DOC, P.O. Box 7925, Madison, WI 53707-7925, or by email: DOCAdministrativeRulesCommittee@wisconsin.gov.

**TEXT OF RULE**

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**SECTION 1.** DOC 328.04 (3) (d) is repealed and recreated to read:

DOC 328.04 (3) (d) Participate in and comply with the requirements of programming recommended by the Department.

**SECTION 2.** DOC 328.04 (3) (j) and (k) are repealed.

**SECTION 3. EFFECTIVE DATE.** This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2) (intro.), Stats.

Date: \_\_\_\_\_ Agency Head: \_\_\_\_\_

Kevin A. Carr, Secretary  
Department of Corrections

**WISCONSIN DEPARTMENT OF CORRECTIONS  
REPORT FROM AGENCY**

**CR 21-104 RULEMAKING REPORT TO LEGISLATURE**

**BASIS AND PURPOSE OF PROPOSED RULE**

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The Wisconsin Department of Corrections proposes an order to repeal DOC 328.04(3)(j) and (k) and to repeal and recreate DOC 328.04(3)(d), relating to adult field supervision.

**GERMANE MODIFICATION TO PROPOSED RULE**

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Under s. 227.19(4)(b)4., Stats., an agency may modify a proposed rule following the committee review period if the modification is germane to the subject matter of the proposed rule. DOC has made two such modifications.

First, the proposed rule no longer repeals Wis. Admin. Code § DOC 328.04(3)(e) which requires offenders to inform their agent of whereabouts and activities as directed. Second, the proposed rule no longer repeals Wis. Admin. Code § DOC 328.04(3)(o) which requires offenders to abide by all rules of any detention or correctional facility. These germane modifications delete these two parts of the prior proposed rule.

**SUMMARY OF PUBLIC COMMENTS AND AGENCY RESPONSE**

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No public comments were received for this proposed rule.

**MODIFICATIONS MADE TO THE PROPOSED RULE AS A RESULT OF PUBLIC COMMENT OR TESTIMONY RECEIVED**

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None.

**PERSONS APPEARING OR REGISTERING AT PUBLIC HEARINGS**

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A public hearing was held on January 12<sup>th</sup>, 2022 from 9:00 am – 10:00 am via Zoom and teleconference. No persons appeared or registered at this public hearing.

**CHANGES TO RULE ANALYSIS AND FISCAL ESTIMATE**

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No changes were made to the rule analysis or the fiscal estimate and economic impact analysis.

**RESPONSE TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

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<b>Legislative Council Comment/Suggestion</b>	<b>Department Response</b>
In the caption for the proposed rule, the listing of repealed provisions should be revised to appear as “DOC 328.04(3)(e), (j), (k), and (o).”	Agree. Corrected.
The department could consider combining Sections 2, 3, and 4 of the proposed rule into one section. When two or more subunits of the same rule section are affected by the same treatment, and any intervening subunits are unaffected, they may be included in the same section of the proposed rule.	Agree. Corrected.



The department's plain language analysis should add sufficient detail to enable the reader to understand the content of the rulemaking order, its relationship to current law, and the changes made in existing rules. In relation to one aspect, the plain language analysis states only that the rule repeals various administrative code provisions "to remove outdated or potentially onerous rule sections." With respect to an additional provision, the analysis states that the rule "amends Wis. Admin Code. S. DOC 328.04(3)(d) to simplify the provision in an effort to increase offender compliance." This description should be revised for a reader to understand, from this analysis, that the proposed rule eliminates certain standard rules of community supervision and modifies an additional standard rule of community supervision. A reader should be able to understand, from the analysis, which standard rules of community supervision the proposed rule would eliminate or why the department has these standard rules are "outdated or potentially onerous." Similarly, a reader should be able to understand how, why, or with what, the proposed change to s. DOC 328.04(3)(d) would "increase offender compliance."

Agree. Corrected.

The Department's proposed change to s. DOC 328.04(3)(d) should be revised to from a grammatically coherent statement. The proposed rule inserts the words "cooperate with" into this rule section, but also strikes references to "the department" and does not replace these references with any other entity with whom the offender shall "cooperate with." As drafted, the proposed rule would direct an offender to "cooperate with...opportunities for programming." An offender could conceivably cooperate with the department, an agent, or some other entity of person, but not with an opportunity.

Agree. Corrected.

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## **FINAL REGULATORY FLEXIBILITY ANALYSIS**

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The Department of Correction has determined that the rule will not have a significant economic impact on a substantial number of small business since the rule does not regulate small businesses as that term is defined in s. 227.114, Stats.



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# Wisconsin Legislative Council

## RULES CLEARINGHOUSE

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**Scott Grosz**  
Clearinghouse Director

**Anne Sappenfield**  
Legislative Council Director

**Margit Kelley**  
Clearinghouse Assistant Director

## CLEARINGHOUSE RULE 21-104

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]**

### **2. Form, Style and Placement in Administrative Code**

a. In the caption for the proposed rule, the listing of repealed provisions should be revised to appear as “DOC 328.04 (3) (e), (j), (k), and (o)”. [s. 1.01 (1) (Example), Manual.]

b. The department could consider combining SECTIONS 2, 3, and 4 of the proposed rule into one SECTION. When two or more subunits of the same rule section are affected by the same treatment, and any intervening subunits are unaffected, they may be included in the same SECTION of the proposed rule. [s. 1.03 (2) (c) 2., Manual.]

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. The department’s plain language analysis should add sufficient detail to enable the reader to understand the content of the rulemaking order, its relationship to current law, and the changes made in existing rules. [s. 1.01 (2) (b), Manual.] In relation to one aspect, the plain language analysis states only that the rule repeals various administrative code provisions “to remove outdated or potentially onerous rule sections”. With respect to an additional provision, the analysis states that the rule “Amends Wis. Admin Code s. DOC 328.04 (3) (d) to simplify the provision in an effort to increase offender compliance”. This description should be revised for a reader to understand, from this analysis, that the proposed rule eliminates certain standard rules of community supervision and modifies an additional standard rule of community supervision. A reader should be able to understand, from the analysis, which standard rules of community supervision the proposed rule would eliminate or why the department has determined these standard rules are “outdated or potentially onerous”. Similarly, a reader should be able to understand how, why, or with what, the proposed change to s. DOC 328.04 (3) (d) would “increase offender compliance”.

b. The department’s proposed change to s. DOC 328.04 (3) (d) should be revised to form a grammatically coherent statement. The proposed rule inserts the words “cooperate with” into this rule section, but also strikes references to “the department” and does not replace these references with any other entity with whom the offender shall “cooperate with”. As drafted, the proposed rule would direct an offender to “cooperate with ... opportunities for programming”. An

offender could conceivably cooperate with the department, an agent, or some other entity or person, but not with an opportunity.



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# Wisconsin Legislative Council

## RULES CLEARINGHOUSE

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**Scott Grosz**  
Clearinghouse Director

**Anne Sappenfield**  
Legislative Council Director

**Margit Kelley**  
Clearinghouse Assistant Director

### **CLEARINGHOUSE REPORT TO AGENCY**

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### **CLEARINGHOUSE RULE 21-104**

AN ORDER to repeal DOC 328.04 (3) (e), (j), (k), and (o); and to amend DOC 328.04 (3) (d), relating to adult field supervision.

Submitted by **DEPARTMENT OF CORRECTIONS**

12-02-2021 RECEIVED BY LEGISLATIVE COUNCIL.

12-23-2021 REPORT SENT TO AGENCY.

MSK:DM



**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached                      YES                                            NO ✓                     

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)] Comment

Attached                                      YES ✓                                            NO                     

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)] Comment

Attached                                      YES                                            NO ✓                     

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached                      YES                                            NO ✓                     

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)] Comment

Attached                                      YES ✓                                            NO                     

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached                      YES                                            NO ✓                     

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)] Comment

Attached                                      YES                                            NO ✓

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 8/3/21
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DOC 328	
4. Subject Revisions to DOC 328, related to Community Supervision of Offenders	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected none
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$N/A	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule DOC seeks to repeal DOC 328.04(3)(e), 328.04(3)(j), 328.04(3)(k), and 328.04(3)(o) to remove outdated or potentially onerous rule sections. The Department also seeks to amend DOC 328.04(3)(d) to simplify the provision in an effort to increase offender compliance.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. N/A	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This rule does not regulate small businesses as that term is defined in s.227.114, Stats, and therefore DOC has determined the changes will not have a significant economic impact on a substantial number of small businesses.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule Implementation of this rule will remove outdated or potentially onerous rule sections. The changes also seek to increase offender compliance. The Department could choose not to propose the revisions, which would mean the rule would continue to be outdated and/or potentially onerous.	
16. Long Range Implications of Implementing the Rule Indeterminate, as it is not possible to predict the frequency with which the changes will impact DOC's population. It is anticipated the changes to 328.04(3)(d) will simplify the provision which could lead to increased offender compliance.	
17. Compare With Approaches Being Used by Federal Government There are no existing or proposed federal regulations that address the activities to be regulated by the proposed rule.	
18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)	

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

All adjacent states have standard rules of community supervision and adjacent states generally have similar standard rules of community supervision to Wisconsin.

19. Contact Name	20. Contact Phone Number
Dawn Woeshnick	608-240-5417

This document can be made available in alternate formats to individuals with disabilities upon request.



**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

██████████

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

██████████

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

██████████

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

██████████

5. Describe the Rule's Enforcement Provisions

██████████

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes  No