

## Chapter DOC 325

## APPENDIX

**Note:** DOC 325.01. DOC 325.01 states the broad objectives of temporary release. Such release must be under the direct supervision of a staff member or other person designated by the warden. Unescorted leave is provided for under ch. DOC 326. Temporary release under escort is not a release under ch. DOC 324.

Subsection (1) recognizes that use of community resources may be beneficial for inmates. Programs outside the institution can provide resources that the department could not develop and that are valuable for reintegration. Temporary release is used for the Jaycee program at Waupun and other educational, religious, and athletic programs. Release for job interviews for work or study release placements will also aid later reintegration.

An inmate may be temporarily released under supervision to visit a seriously ill close family member or to attend the funeral of a close family member. Experience has shown that this opportunity is desirable for an inmate. It maintains family ties; the inmate is with family during a difficult period; and feelings of pain and sorrow are more easily handled. Being with the family also assists in adjustment at the institution.

An inmate may be temporarily released to facilitate handling emergency situations. For example, this chapter gives correctional authorities flexibility to respond to requests from law enforcement agencies and courts or to temporarily release an inmate for medical treatment. Temporary release under supervision provides a means of releasing an inmate who either is ineligible for unescorted leave under ch. DOC 326 or is eligible but because of time limitations cannot be approved in time.

Temporary release must be consistent with the preservation of institutional order and public protection. Experience shows that at certain times release can foster institutional adjustment. However, if a warden finds that release would threaten institutional order or public safety, denying the release may be necessary although the objective of the request is proper.

**Note:** DOC 325.02. The statutory authority for temporary release applies only to the state of Wisconsin. If it becomes necessary to transport an inmate outside the state, it must be done under some other authority; for example, a court order or an extradition order.

**Note:** DOC 325.03. Under sub. (1), the underlying relationship, rather than actual blood ties, determines who is a close family member.

**Note:** DOC 325.04. Inmates released under the authority of ch. DOC 324 (work and study release) and ch. DOC 326 (leave for qualified inmates) need not be directly supervised. When inmates are released under the authority of this chapter, however, direct supervision is required.

Because any inmate, regardless of custody rating, can be released temporarily consistent with the purposes under s. DOC 325.01, different levels of supervision may be necessary, and s. DOC 325.07 requires the warden to specify the conditions of supervision.

This section authorizes the warden to designate persons other than staff members to supervise inmates released under this chapter. Often the institution will approve for inmate participation a program run by noninstitution staff. The supervisor of such a program may be designated as the escort for an inmate who participates. This section is not intended to authorize appointment of inmate's attorneys or friends as escorts.

**Note:** DOC 325.06. Section 302.15, Stats., specifically grants the warden power to order release for off grounds activities approved by the department. Section 304.115, Stats., specifically grants emergency removal power to the secretary and

authorizes its delegation to the warden. This section makes it clear that authority has been delegated to the warden.

**Note:** DOC 325.07. The warden sets the conditions to be followed on temporary release. The conditions will vary, depending on the purpose of the leave and the security risk, but must comply with s. DOC 302.05 regarding use of restraints.

**Note:** DOC 325.08. Subs. (1) and (2) were adopted to inform inmates, the public, and correctional personnel of the more routine reasons for ordering temporary release. Thus, releases under the criteria in the 2 subsections should be consistent with the overall purposes of this chapter. The warden is not required, however, to release an inmate just because his or her request is based on the criteria under the first 2 subsections. The warden may, for good reason, deny a request even though the request satisfies the criteria. For example, if a warden knew of an escape to be attempted by an inmate at a job interview, the application for temporary release should not be approved.

**Note:** DOC 325.09. DOC 325.09 requires that the specific conditions of the release be in writing.

**Note:** DOC 325.10. Section 302.15, Stats., specifically states that an inmate is subject to the rules and discipline of the department when released under that section. Since an inmate is in the department's custody while on temporary release, the inmate is deemed under this section to be under the institution's care and control.

**Note:** DOC 325.11. This section gives the person escorting the inmate authority to issue lawful directives to the inmate, because the varying circumstances of releases make it impossible to specify all conduct an inmate may engage in as a condition of the leave.

**Note:** DOC 325.12. Under sub. (1), cancellation of a temporary release order is at the warden's discretion. Since the warden has authority under s. DOC 325.06 to approve the release, the warden is the person authorized to cancel it. This power to cancel temporary release must be unrestricted in the interests of security.

It is important that the warden put into writing the reasons for cancellation of the order and the facts upon which the decision was based. This is important. If the cancellation was for inmate misconduct, the misconduct will be documented. If the cancellation was not for inmate misconduct, having the reason recorded is extremely important for the inmate, because the record will ensure that accurate information is available to the program review committee and the parole commission.

**Note:** DOC 325.13. Since release requires an escort and transportation, a warden may require the inmate to pay. This subsection should be applied with fairness and in a manner consistent with the requirements of ss. DOC 309.45 to 309.52.

If an inmate with very little money would like to attend the funeral of a parent, the warden may require the inmate to pay a very minimal cost or none because the warden believes the inmate's attendance at the funeral would benefit the inmate. If the same inmate were to attend an athletic event with other inmates, however, the warden might decide that the benefit to the inmate is not significant enough to relieve him or her from the obligation of paying the cost.

**Note:** DOC 325.14. Because specific procedures vary among institutions, this section does not specify the procedure. Any procedure implementing this section shall ensure timely action on inmate requests. Obviously, any request made within a reasonable time before the requested time of release must be acted on before that time.