

Chapter HSS 326

LEAVE FOR QUALIFIED INMATES

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Note: Several of the sections in Ch. HSS 326 have explanatory notes. This information can be located in the appendix following the last section of the chapter.

HSS 326.01 Applicability. This chapter is promulgated under the authority of s. 56.068 (5), Stats., and interprets s. 56.068, Stats. It applies to the department and to all adult inmates in the legal custody of the department for correctional purposes. Unescorted leave for minimum security inmates under this chapter is distinguishable from temporary release of inmates with supervision which is regulated by ch. HSS 325, Wis. Adm. Code, and from work and study release of inmates which is regulated by ch. HSS 324, Wis. Adm. Code.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.02 Purpose. Leave for a qualified inmate is an unescorted and authorized absence from an institution to visit a close family member who is seriously ill, to attend the funeral of a close family member, or to contact prospective employers. An additional purpose of leave is to help prepare the inmate for reintegration into society. Leaves are also to be granted consistent with public protection. Decisions on leave applications shall be consistent with these goals.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.03 Definitions. In this chapter:

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

(2) "Division" and "DOC" mean the division of corrections of the department of health and social services.

(3) "Classification chief" means the chief of classification of the division of corrections or designee.

(4) "Detainer" means a document filed with the division of corrections by another criminal justice agency to initiate transfer of custody upon release from division custody.

(5) "Leave for qualified inmates," "leave," or "furlough" means a privileged authorized absence from an institution for one of the following purposes under s. 56.068, Stats.:

(a) To visit a parent, child, spouse, brother, or sister who is seriously ill;

(b) To attend the funeral of a parent, child, spouse, brother, or sister; or

(c) To contact a prospective employer who has requested an interview.

(6) The "leave agreement" is an agreement, signed by the inmate, in which the inmate agrees to accept the responsibilities that the privilege of leave requires and voluntarily agrees to abide by certain conditions specified in the agreement.

(7) A "leave condition" or "condition of leave" means a specific written requirement or limitation placed upon leave that has been granted.

(8) The "leave destination" means the physical location of the leave principal or event that is the justification for the leave.

(9) The "leave review committee" means the standing committee that reviews applications for leave transmitted from the institution social worker assigned to investigate the application. Its members are appointed by the superintendent or regional chief and shall consist of three members including:

(a) A unit supervisor or member of the security staff who holds a supervisory position;

(b) A member of the social services staff who holds a supervisory position or the liaison agent to the facility where the inmate resides; and

(c) A staff member from any other area and rank appointed by the superintendent or regional chief.

(10) "Misconduct" means behavior in violation of state or federal statutes, administrative rules of the department, the leave agreement, or any conditions of leave.

(11) "Principals" or "leave principals" means individuals, approved as willing and able during the eligibility review process, who have consented to and will assist in the leave, including the immediate family, potential employers, or others.

(12) "Regional chief" means the chief of a bureau of community corrections region of the division of corrections, or designee.

(13) "Reviewing authorities" means the leave review committee, the superintendent or regional chief, and the classification chief.

(14) A "serious illness" means an illness from which death may be imminent in the opinion of an attending physician. The physician's opinion need not be a written or formal opinion. The physician's opinion does not prevent the leave review committee from evaluating "serious illness" under s. HSS 326.06.

(15) "Superintendent" means the superintendent of an institution, or designee.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.035 Organization of leave program. (1) To obtain leave an inmate shall:

(a) Make application under s. HSS 326.08(1);

(b) Meet all the basic eligibility requirements under s. HSS 326.04, which all inmates must meet; failure to do so automatically precludes the granting of leave;

(c) Be selected by the reviewing authorities using the criteria of s. HSS 326.06 and the procedure of s. HSS 326.08; and

(d) Receive a written decision under s. HSS 326.08(6).

(2) All applications for leave shall be investigated under s. HSS 326.05.

(3) Appropriate local officials shall be notified under s. HSS 326.10 upon the granting of leave.

(4) The status of an inmate on leave is defined in s. HSS 326.11, and the inmate's conduct while on leave is regulated under s. HSS 326.13. Payment of expenses is governed by s. HSS 326.12.

(5) Sanctions for violations of statutes, rules, the leave agreement, or conditions are provided for in s. HSS 326.14.

(6) The record keeping requirements for the leave program are contained in s. HSS 326.16.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.04 Eligibility for leave application. To be eligible to apply, an inmate shall meet the following requirements:

(1) An inmate shall have a security classification of minimum for 30 days prior to application.

(2) (a) If the purpose of leave is an employment interview, inmates shall have a defer of 6 months or less from the state parole board or shall be within 6 months of target release date under the mutual agreement program, mandatory release, or discharge.

(b) If the purpose of leave is to visit an ill relative or to attend a funeral, the inmate need not be within any particular time of parole release, target release under the mutual agreement program, mandatory release, or discharge.

(c) Inmates serving a life sentence shall have attained parole eligibility prior to making application and shall meet all other criteria.

(d) Inmates shall not have a Wisconsin probation or parole revocation proceeding pending.

(e) Inmates shall sign the leave agreement and agree to abide by all provisions contained therein.

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(3) Inmates shall agree in advance to examinations such as urinalysis or breathalyzer tests and a personal or strip search upon return to the institution or during the leave. Tests shall be conducted upon order of law enforcement officials, officials of the division's bureau of community corrections, or officials of the division's bureau of adult institutions.

(4) The leave principals must consent to the leave. A failure to consent by any leave principal shall make the inmate ineligible.

(5) The leave shall be requested for one of the purposes under s. HSS 326.03 (4).

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.05 Investigation. (1) Each application for leave shall be reviewed by the institution social worker or personnel of the bureau of community corrections, or both, for the purpose of verifying the accuracy of the information in the leave application and the inmate's eligibility under s. HSS 326.04. This shall include contact with the principals named on the leave application and any other person who can verify the accuracy of an application for leave.

(2) If the inmate is eligible, the application shall be investigated by the institution social worker and personnel of the bureau of community corrections to ascertain all information that could be relevant to the reviewing authorities' decision based on the criteria for leave under s. HSS 326.06. This investigation shall include contact with the relevant law enforcement agencies and may include contact with the committing court, the district attorney's office of the county of commitment, the chief of police of the city of visitation, the sheriff of the county of visitation, and the district attorney of the county of visitation. Detainers filed with respect to the inmate shall be investigated in the manner provided under s. HSS 302.14 (14), Wis. Adm. Code.

(3) The investigation shall be completed in a timely manner so an application may be reviewed prior to the requested leave date.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.06 Criteria for leave. The criteria used by the leave review committee, the superintendent or regional chief, and the classification chief for granting or denying a leave application shall include only the following:

- (1) The inmate's eligibility under s. HSS 326.04.
- (2) The risk of escape. In deciding whether an inmate presents a risk of escape, the following factors are relevant:
 - (a) The inmate's escape record;
 - (b) Detainers filed with respect to the inmate; the facts underlying the detainer shall be the relevant criteria; and
 - (c) Misconduct on a prior leave.

(3) The disciplinary record of the inmate, including whether the inmate has received a recent major conduct report.

(4) Any other matter consistent with the purposes of leave under s. HSS 326.02. Such matters may include, but are not limited to:

(a) Substantial likelihood of a severe negative reaction in the community to which the inmate is granted leave or in the community where the offense was committed; and

(b) Substantial likelihood that the inmate will be in physical danger while on leave.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.07 Conditions. (1) The reviewing authorities shall impose the following written conditions on all leaves granted:

(a) The leave shall be restricted to the state of Wisconsin;

(b) The leave shall be granted for a period of time necessary for the purpose of the leave under s. HSS 326.02, but no inmate may be granted more than 3 leaves per calendar year, and no leave may exceed 3 days unless an extension is granted under s. HSS 326.16 [326.15].

(2) The reviewing authorities may impose in writing the following additional conditions appropriate to specific applications:

(a) Geographic and travel conditions including travel routes, mode of transportation, the specific geographical confines within which the inmate is authorized to move, and other relevant restrictions;

(b) Any condition on movement or conduct consistent with the purposes of leave under s. HSS 326.02.

(3) A leave shall not be granted as a reward for good behavior or granted or denied for reasons other than those specified in this chapter.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.08 Procedure. (1) The inmate shall initiate the process by submitting an application and signed leave agreement to the institution social worker within a reasonable time prior to the requested departure date. The application must contain details including time, dates, principals involved, and any other relevant information.

(2) The validity of the inmate's request for leave shall be investigated under s. HSS 326.05 by employes of the department and documented. The following procedure is recommended:

(a) The institution social worker should review the application and determine eligibility under HSS 326.04. Documentation of all persons contacted will be entered in the chronological social service file. If, upon investigation, the social worker finds the inmate ineligible, the social worker shall note the reason for ineligibility in writing on the application.

(b) The institution social worker should provide the parole agent with basic leave plan information.

(c) The social worker, with the assistance of the parole agent if necessary, should investigate other facts under s. HSS 326.06 needed by the reviewing authorities and note the results of the investigation on the appropriate form for the institution and field supervisor. In emergen-

cies, the parole agent, with the approval of the field supervisor, may provide a verbal report to the institution.

(3) Following investigation, the application with appropriate documentation shall be referred for review and decision under sub. (4) and s. 56.068, Stats.

(4) Review shall be as follows:

(a) The leave review committee shall conduct the initial review. Unanimous approval by the committee must be obtained for a recommendation to grant leave. If unanimous approval is not obtained, the application denied at this level. Before making a decision, the committee may request that the inmate make an oral statement or answer questions.

(b) If the application is approved by the leave review committee, or if it is denied and the inmate requests review, the superintendent or regional chief shall review it and make a recommendation to approve or deny. The inmate may supply a written response to the decision of the leave review committee.

(c) The application shall be transmitted with the recommendation of the superintendent or the regional chief to the division of corrections classification chief, who shall review the application and make a final decision.

(5) The reviewing authorities shall impose the leave conditions in accordance with s. HSS 326.07. The inmate shall sign a statement agreeing to the conditions as a prerequisite to leave being granted.

(6) The decisions of the reviewing authorities and the reasons for the decisions shall be given to the inmate in writing and shall include the specific facts and criteria on which the decisions are based.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.09 Denial of leave not reviewable in the inmate complaint system. Denial of a specific application for leave is not reviewable in the inmate complaint system, under ch. HSS 310, Wis. Adm. Code, but complaints about violations of the procedures of the leave process may be reviewed within the inmate complaint system.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.10 Notification of local officials. Upon approval of an application for leave by the division's classification chief, the superintendent or regional chief shall notify the police chief, the sheriff, and the district attorney of the county involved, as required under s. 56.068 (2), Stats.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 316.11 Custody. (1) An inmate granted leave remains in the legal custody of the institution where the inmate resides or is assigned.

(2) While on leave, an inmate shall carry a copy of the leave authorization and conditions of leave.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.12 Expenses. All direct expenses of a leave shall be the responsibility of the inmate, the family, or another lawful source.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.13 Inmate conduct while on leave. The following provisions apply when leave is granted and shall be included as part of the leave agreement:

(1) An inmate shall travel to and from the leave destination by a method of transportation and on a route approved by the reviewing authorities.

(2) An inmate shall not enter into contracts or agreements without prior approval of the appropriate correctional authority, except that an inmate may enter into a contract to begin employment following release. Prohibited contracts include, but are not limited to, purchases of property, time payments, and marriage.

(3) An inmate shall not take into his or her body any alcohol, drugs, or medication, except as authorized by a physician.

(4) An inmate shall comply with all statutes, administrative rules, the leave agreement, and conditions of the leave.

(5) The inmate shall carry a copy of the leave authorization and the conditions of leave as required by s. HSS 326.12 [326.11] (2).

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.14 Sanctions. (1) An inmate who intentionally fails to return from leave or who intentionally leaves the area designated as the limits of confinement according to the leave conditions may be treated as an escapee.

(2) Inmates who violate conditions of leave, the leave agreement, or any rules of the division may be subject to disciplinary action under ch. HSS 303, Wis. Adm. Code.

(3) The superintendent or regional chief may cancel leave at any time for misconduct by the inmate or upon request of a leave principal.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.15 Extensions. An extension beyond the 3-day maximum period for a leave may be granted by the superintendent or regional chief if consistent with the purpose of the leave. Such extension shall not exceed 3 days.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

HSS 326.16 Records. (1) Appropriate records regarding leaves shall be kept.

(2) These records shall include a monthly listing of inmates granted a leave. The monthly list shall be submitted to the director of the division's bureau of adult institutions. The list shall include the name, number, leave destination, and dates involved.

(3) These records should permit an evaluation of the leave program.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.

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HSS 326.17 Good time credit on leave. Leave time is credited toward service of the sentence. The time credit includes state and extra good time.

History: Cr. Register, September, 1981, No. 309, eff. 10-1-81.