

Chapter HSS 350

JAILS

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HSS 350.01 Purpose and authority. The purpose of this chapter is to establish minimum standards for the design and construction of jails and for maintaining sanitary and safe conditions in jails and the security of jails, and due process protections for inmates alleged to have violated jail conduct rules and subject to disciplinary proceedings. The rules are promulgated under the authority of ss. 46.03 (6) (e), 46.17 (1) and 227.11 (2) (a), Stats.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.02 Applicability. This chapter applies to all jails established by counties under s. 53.30, Stats., all state-local shared correctional facilities established under s. 53.45, Stats., and all county houses of corrections established under s. 56.16, Stats.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.03 Definitions. In this chapter:

(1) "Cell" means a secure room designed and used as a sleeping room for one person confined in a jail.

(2) "Confinement" means placement in a cell of a person who has been arrested and is awaiting bail or bond posting, arraignment, or another legal proceeding listed under ss. 48.208 and 48.209, Stats., for juveniles, or s. 53.31, Stats., for adults.

(3) "Contraband" means any item not allowed in a jail by the jail administrator or by this chapter.

(4) "Dayroom" means an area in a jail which is designed and used as a leisure time area and which is readily accessible to a group of cells or a dormitory or is located within a dormitory.

(5) "Department" means, before January 1, 1990, the Wisconsin department of health and social services and, beginning January 1, 1990, the Wisconsin department of corrections.

(6) "Detention strength" means strong enough to resist damage an inmate could inflict with tools or equipment that would normally be in his or her possession.

(7) "Division" means the division of the department responsible for regulating jails.

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(8) "Dormitory" means a room used for sleeping purposes and designed for occupancy by 2 or more persons.

(9) "Holding room" means a secure room in the jail designed for holding more than one inmate of the same sex and security classification as determined by the segregation requirements specified in s. 53.36, Stats., for the purpose of processing admissions and releases.

(10) "Huber law inmate" means an inmate granted the privilege of leaving a jail under s. 56.08, Stats., or s. 973.09, Stats.

(11) "Jail" means a place of confinement operated by a county for the purposes listed under s. 53.31, Stats. "Jail" includes a jail as defined under s. 53.30, Stats., a state-local shared correctional facility as defined under s. 53.45, Stats., and a county house of corrections as defined under s. 56.16 and 56.17, Stats.

(12) "Jail administrator" means the person in charge of jail operations or a designee.

(13) "Multi-purpose room" means a room or an area in a jail that is designated for recreational activities, physical exercise or congregate assembly other than visiting.

(14) "Receiving cell" means a secure room designed and used as a sleeping room for one person confined in a jail to segregate the person for admission, release or disciplinary purposes.

(15) "Secure perimeter of the jail" means the secure outer boundaries of a jail. The secure perimeter may include gates and fences for jails which provide outdoor programming.

(16) "Security classification" means a grouping of inmates based on the level of supervision required, the nature of the offense for which the inmate was arrested or of which the inmate was convicted, or other criteria set by the jail administrator.

(17) "Work release inmate" means an inmate granted leave privileges from a state correctional institution under s. 56.065, Stats., and ch. HSS 324.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.04 Construction plans. (1) Before design development begins, a county which intends to build or remodel a jail shall file a letter of intent with the division's regional detention facilities specialist.

(2) Copies of original and updated drawings of the area within the secure perimeter of the jail shall be submitted to the division's regional detention facilities specialist at the same time the drawings are submitted to the county.

(3) All sites, plans and specifications for construction or remodeling of a jail shall comply with the state building code, chs. ILHR 50 to 64.

(4) Prior to approval by the department of industry, labor and human relations under s. ILHR 50.12 and prior to publication of bid documents, 2 complete sets of plans and specifications shall be forwarded to the division for its review and approval.

(5) Upon approval by the division, one set of plans and specifications shall be marked to indicate approval by the division and returned to the county office or other office that submitted the plans. The remaining set shall be filed in the division. If the plans and specifications are not approved, both sets shall be returned to the sender.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.05 Physical environment for new or substantially remodeled jails. (1) **APPLICABILITY.** This section applies only to jails that are constructed or substantially remodeled on or after the effective date of this chapter.

(2) **EQUIPMENT AND MATERIALS.** The following equipment and materials used in a jail shall be of detention strength and manufactured, sold and installed by firms that specialize in jail and prison equipment or ordered from a firm that will follow the specifications for detention strength equipment in this chapter:

- (a) Windows;
- (b) Glazing;
- (c) Security screens;
- (d) Grills over vents and windows;
- (e) Security doors;
- (f) Security locks;
- (g) Hinges;
- (h) Food passes;
- (i) Observation ports;
- (j) "Contraband proof" sills;
- (k) Speaking ports;
- (l) Seats;
- (m) Benches;
- (n) Lights;
- (o) Locking mechanism housings;
- (p) Key cabinets;
- (q) Walls;
- (r) Window and door frames;
- (s) Bunks;
- (t) Tables;
- (u) Toilets;
- (v) Urinals;
- (w) Wash basins;

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- (x) Drinking fountains;
- (y) Showers;
- (z) Desks;
- (za) Clothing hooks;
- (zb) Shelves;
- (zc) Door pulls;
- (zd) Screws;
- (ze) Bolts;
- (zf) Mirrors;
- (zg) Floor drains; and
- (zh) Ceilings.

(3) **CELLS.** (a) This subsection applies to all cells except receiving cells and holding rooms. Requirements for receiving cells are specified under sub. (5) and requirements for holding rooms are specified under sub. (7).

(b) Each cell shall be designed and used for single occupancy only.

(c) Each cell shall have a floor area of at least 54 square feet. The distance between the floor and ceiling may not be less than 8 feet and the distance between opposite walls may not be less than 6 feet.

(d) Each cell shall have:

1. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength;

2. A detention strength, metal, institution-type wash basin and toilet. The wash basin and toilet may be combined in one unit. The wash basin shall have hot and cold running water;

3. Detention strength light fixtures that shall provide at least 10 foot-candles of illumination, 30 inches above the floor. Lights shall have a dimming capability or there shall be a night light to allow for comfortable sleeping;

4. A detention strength, metal, institution-type shelf table and seat which are bracketed to the wall or bolted to the floor or a table and seat of masonry construction of similar strength; and

5. A detention strength, metal, institution-type mirror that is not removable.

(e) There shall be at least one shower or bathtub for every 10 inmates in each area on each floor where cells are located. There shall be hot and cold running water in the showers and bathtubs and the hot water shall maintain a minimum temperature of 105°F to the mixer. In this subsection, "mixer" means the part of the plumbing system which combines hot and cold water.

(4) **DAYROOMS.** (a) All dormitories and cells, except receiving cells and holding rooms, shall be provided with one or more dayrooms in their im-

mediate vicinity that are accessible to inmates. A dayroom which is not an area within a dormitory shall provide a minimum of 35 square feet for each occupant of the dormitory or the cells which have access to the dayroom and shall have a minimum total space of 70 square feet. If the dayroom is an area within a dormitory, the requirements under sub. (6) (b) apply.

(b) Each dayroom shall have sufficient detention strength tables and seating for the number of occupants of the dormitory or cells that have access to the dayroom.

(c) Illumination in dayrooms may not be less than 10 footcandles, 30 inches above the floor.

(5) RECEIVING CELLS. (a) All receiving cells shall be designed and used for single occupancy.

(b) Each receiving cell shall have a floor area of at least 54 square feet. The distance between the floor and ceiling may not be less than 8 feet and the distance between opposite walls may not be less than 6 feet.

(c) Each receiving cell shall have:

1. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength;

2. A detention strength, metal, institution-type wash basin and toilet. The wash basin and toilet may be combined in one unit. The wash basin shall have hot and cold running water; and

3. Detention strength light fixtures that shall provide at least 10 footcandles of illumination, 30 inches above the floor. Lights shall have a dimming capability or there shall be a night light to allow for comfortable sleeping.

(6) DORMITORIES. (a) Inmates may be housed in dormitories if the inmates are of the same security classification and properly segregated as required under s. 53.36, Stats.

(b) Each dormitory which does not contain a dayroom shall have a minimum floor area of 35 square feet per occupant, excluding the toilet and shower area. Each dormitory containing a dayroom shall have a minimum floor area of 50 square feet per occupant, excluding the toilet and shower area. Each dormitory shall have a floor to ceiling height of not less than 8 feet.

(c) A detention strength bed shall be provided for each occupant of a dormitory.

(d) A secured locker for clothing and personal property shall be provided for each occupant of a dormitory.

(e) Dormitories shall be provided with illumination of at least 10 footcandles 30 inches above the floor and with the ability to reduce lighting during sleeping hours to a level which is enough for security checks.

(f) Each dormitory shall provide one shower or bathtub for every 10 occupants, one toilet and one wash basin for every 8 occupants and, in dormitories with male occupants, at least one urinal for each dormitory. Each dormitory shall have hot and cold running water and the hot water

shall maintain a minimum temperature of 105°F to the mixer. In this subsection, "mixer" means the part of the plumbing system which combines hot and cold water.

(g) Dormitories shall be constructed of materials of detention strength and shall be provided with detention strength equipment.

(7) **HOLDING ROOMS.** (a) For admission, release and investigative purposes, an inmate may be placed in a holding room for a period of time not to exceed 4 hours, but only after the decision has been made to admit the inmate to the jail and proper entries have been made in the register of inmates required under s. HSS 350.10 (1). Holding rooms shall be located in an area that allows continuous staff observation or electronic video surveillance of inmates. Supervision is subject to the requirements of ss. 53.41 and 53.42, Stats.

(b) Holding rooms may be designed and used for multiple occupancy for inmates of the same classification who are properly segregated under ss. 48.209 and 53.36, Stats.

(c) Each holding room shall contain detention strength, rigidly constructed seats or benches bracketed to the wall or bolted to the floor or seats or benches of masonry construction of a similar strength.

(d) A detention strength, institution-type wash basin and toilet shall be provided for every 8 occupants and, in holding rooms designated for male occupancy, a urinal shall be provided.

(e) A holding room shall have a floor area of at least 50 square feet with an additional 10 square feet for each occupant above 5.

(8) **MULTIPURPOSE ROOM.** Each jail shall provide a multipurpose room for recreation, physical exercise and congregate assembly other than visiting. The multipurpose room shall have a minimum floor area of 300 square feet.

(9) **EXTERIOR WINDOWS.** (a) This subsection applies to all windows that lead to the exterior of the jail or to an area outside the secure perimeter of the jail.

(b) All exterior windows shall be translucent or shall be located to prevent persons outside the secure perimeter of the jail from observing inmates within the jail.

(c) Each exterior window that has an opening in any direction in excess of 5½ inches shall be covered with security steel grills to prevent escape.

(d) If an exterior window is accessible to inmates and opens, the window shall be mounted in a detention strength frame and shall be covered on the inside with a 1,600 pound per lineal inch tensile strength security screen of .047 mil. wire diameter to prevent the passage of contraband.

(e) If an exterior window is not accessible to inmates and opens, the window's security screen need not meet the requirements of par. (d), but the screen shall have a tensile strength of at least 800 pounds per lineal inch and shall be made of wire of at least .028 mil. diameter.

(f) If an exterior window does not open, whether or not it is accessible to inmates, the security screen required under par. (d) or (e) may be omitted if the window is mounted in a detention strength frame and the

pane is security glass of sufficient strength to resist breakage and prevent the passage of contraband.

(10) **EXTERIOR APPROACHES.** The exterior of the jail and approaches to the jail shall be well lighted at night to permit observation of persons approaching the building.

(11) **WALLS.** (a) Walls on the exterior of the jail shall be constructed of reinforced concrete or fully grouted concrete block at least 8 inches thick, or the walls shall be constructed of materials of similar strength which provide equivalent security.

(b) Walls in the interior of the jail shall be constructed of reinforced concrete or fully grouted concrete block at least 6 inches thick, or the walls shall be constructed of materials of similar strength which provide equivalent security.

(12) **CEILINGS.** Ceilings in areas accessible to inmates shall be constructed of pre-cast concrete or flat steel of at least 3/16 inch thickness, or ceilings shall be constructed of materials of similar strength which provide equivalent security.

(13) **DOORS AND LOCKS.** (a) Every door that leads to the exterior of the jail or to an area outside the secure perimeter of the jail shall have a sill designed to prevent the introduction of contraband.

(b) Every door entering into the secure perimeter of the jail shall be of detention strength. Each of these doors shall have a vision panel or other means of observation to permit identification of individuals before they enter an area within the secure perimeter of the jail and to allow observation of an area before entering it. If the vision panel has an opening in any direction in excess of 5½ inches, the opening shall be covered with detention strength steel grills to prevent escape.

(c) In multiple cell sections, except for receiving cell sections, the mechanical means of emergency release may not be operated by key locks in the door or cells. The mechanical means of emergency release shall be operated by remote control located in an area not accessible to inmates. In receiving cells, the mechanical means of emergency release may be operated by key locks in the doors of cells.

(14) **ACCESS TO CONTROLS.** Inmates may not have access to plumbing, wiring, vents, thermostats, switches or controls, except that inmates in dormitories may have limited control over lights, heating, radios and televisions.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.06 Physical environment of existing jails. (1) This section applies to jails that were constructed before March 1, 1990 and have not been substantially remodeled on or after March 1, 1990.

(2) Each cell shall be designed and used for single occupancy only.

(3) Each cell shall be at least 5½ feet wide and 7½ feet long and provide 400 cubic feet of air space.

(4) Each cell shall contain a rigidly constructed metal bunk with the frame bracketed to the wall or bolted to the floor, a prison-type wash bowl, a prison-type toilet, and a small institution-type shelf table and

seat both fastened to the wall. The small institution-type shelf table and seat are not required for receiving cells or where dayrooms adjoin cells.

(5) There shall be at least one shower or bathtub for every 10 inmates in each section on all floors. The supply of hot and cold water shall be adequate.

(6) Dormitories may be used for Huber law inmates or other groups by classification. Huber law inmates and work release inmates shall be kept separate from other prisoners. Dormitories shall include sufficient wash basins, toilets and showers. There shall be at least one shower or bathtub for every 10 inmates, and one toilet and one wash basin for every 8 inmates. In male sections, at least one urinal shall be provided.

(7) All windows accessible to prisoners shall be covered with a heavy gauge screen of $\frac{1}{4}$ " mesh or less or a detention screen to prevent passage of contraband.

(8) An approved security door with a security glass observation opening shall be provided for each entrance into the confinement area of a jail. The door may not be unlocked except to admit authorized persons and inmates.

(9) A detention strength locking device shall be installed on each security door. Padlocks may not be used as a locking device for any security door. Jail sections having multiple cells shall be provided with selective locking devices so that doors may be opened and closed either individually or collectively.

(10) The exterior of and approaches to the jail shall be well lighted at night to permit observation of persons approaching the building.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.07 Sanitation. All jails shall meet the requirements of ch. HSS 190. In addition:

(1) Inmates assigned to the kitchen who prepare, handle or serve food shall bathe daily;

(2) Blankets shall be laundered or sterilized before reissue. Blankets used with sheets shall be laundered at least every 3 months and blankets used without sheets shall be laundered at least weekly;

(3) Sheets, pillowcases and mattress covers shall be changed and washed at least weekly;

(4) Clean towels shall be issued to each inmate twice a week;

(5) Mattresses shall be provided where there is a need for overnight detention. Each mattress and each pillow, if used, shall be covered with a fire retardant, waterproof, easy-to-sanitize material. Mattresses and pillows shall be kept in good repair and in a clean and sanitary condition. If mattresses are provided, clean sheets, pillowcases if pillows are used and blankets shall be provided;

(6) Suppliers of mattresses and pillows shall provide evidence to the jail administrator that the products are fire retardant, waterproof and easy to clean; and

(7) Mattresses shall be at least 3 inches thick and of proper size to fit the bed.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.08 Health care and hygiene. (1) Upon admission, each inmate shall be screened for mental and physical health problems by the jail staff who shall make use of a screening format developed in conjunction with medical personnel, including mental health care personnel.

(2) The jail administrator shall provide or secure necessary medical treatment and emergency dental care for inmates in custody.

(3) No prescription medications or treatments may be administered unless prescribed by a physician. If a nurse or physician is not available, jail staff may deliver prescribed doses of oral medication at prescribed times.

(4) A written record of the administration or delivery of all treatments and prescription medications, including who administered or delivered them and the date and hour of administration or delivery, shall be maintained. Medical records shall be kept separate from other records and shall be maintained in a confidential manner in accordance with ss. 146.81 to 146.83, Stats., and any other applicable state or federal laws.

(5) Any medications kept at the jail shall be stored in a locked drug cabinet that is not accessible to inmates.

(6) If an inmate dies or becomes acutely ill while in custody, the next of kin shall be notified as soon as possible.

(7) Containers of poisonous compounds used for exterminating rodents or insects shall be prominently and distinctly labeled for easy identification of contents. Poisonous compounds shall be stored independently and separately from food and kitchenware in a locked area not accessible to inmates.

(8) The jail administrator shall obtain the services of a dietician registered by the commission on dietetic registration of the American dietetic association to review representative menus annually for caloric content, nutritional value and proportions. Menus shall be kept for 90 days for review. A copy of the dietician's evaluation shall be made available to the division's regional detention facilities specialist. An inmate shall be provided with a special diet if ordered by a physician.

(9) The jail administrator shall provide an inmate whose clothing has been confiscated with adequate and appropriate clothing, including footwear, for use while the inmate is in custody.

(10) Inmates shall be provided with towels and toilet articles sufficient for the maintenance of cleanliness and hygiene, including toothpaste and toothbrush, soap, comb and toilet paper. Shaving materials and basic feminine hygiene materials shall be provided to inmates upon request. There shall be no common use of toothbrushes, combs, shaving materials or feminine hygiene materials.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.09 Fire safety. (1) Each jail shall have and shall properly maintain fire alarms, smoke and thermal detectors, fire extinguishers, fire attack equipment and self-contained breathing apparatuses which oper-

ate for at least 30 minutes. This equipment shall be placed in the jail in accordance with the advice of the local fire department.

(2) Each jail shall develop written policies on fire protection, evacuation, including evacuation of persons with disabilities, and training of staff in equipment use and evacuation. The policies shall comply with local fire department recommendations.

(3) The evacuation route developed as part of the evacuation policy under sub. (2) shall be posted in a conspicuous place for jail staff in the jail.

(4) The jail administrator shall arrange for a fire inspection by the local fire department at least once every 6 months. Documentation of fire inspections shall be included in facility files.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.10 Records and reporting. (1) **REGISTER OF INMATES.** Each jail shall keep a register of all inmates. The register shall contain identifying information on each inmate, including name, residence, age, sex, race, court order, time and cause of placement and placing authority, and time of release and releasing authority. If an inmate escapes, the time and manner of the escape shall be recorded in the register.

(2) **JAIL LOG.** Each jail shall have a log which shall include the information required in ss. HSS 350.11 (1) and (5), 350.12 (5), and 350.14 (2) (g) and (3) (k). The log shall be maintained by shift on a daily basis.

(3) **STORAGE OF RECORDS.** Records shall be kept in a secure area. Juvenile records shall be kept separate from records of inmates 18 years of age or older and shall be maintained in a confidential manner in accordance with s. 48.396, Stats., and any other applicable federal or state law.

(4) **REPORTING REQUIREMENTS.** (a) The jail administrator shall notify the division's regional detention facilities specialist within 48 hours after any of the following events occur:

1. An inmate dies;
2. An inmate attempts suicide and is admitted to a hospital, not including an emergency room admission or admission for detention and evaluation under ch. 51, Stats., or is provided medical treatment for a life-threatening injury incurred as a result of the suicide attempt;
3. An inmate has received an injury and is hospitalized due to the injury;
4. An inmate escapes or attempts to escape, not including failure to return from a Huber law release under s. 56.08, Stats.; or
5. There is any significant damage to the jail.

(b) Information requested by the division shall be promptly furnished by the jail administrator.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.11 Security. (1) Jail staff shall physically inspect all areas of the jail occupied by inmates at least once every 60 minutes, except that areas occupied by inmates in administrative confinement, as defined in s. HSS 350.12 (1), or in punitive segregation shall be physically inspected

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at least once every 30 minutes and areas occupied by inmates who have been identified by jail staff as having a special problem, such as mental disturbance, a suicidal tendency or severe alcohol or drug withdrawal, shall be physically inspected at least once every 15 minutes. Jail staff shall conduct inspections at irregular intervals, during the day or night, to ensure that inmates are in custody and are safe. Jail staff shall record each inspection in the jail log, including the time of the inspection and the inspecting staff member's initials.

(2) There shall be at least 3 complete sets of jail and fire escape keys, one set in use, one set stored in a safe place which is accessible only to jail personnel for use in an emergency and one set stored in a secure place outside the jail.

(3) All jail personnel shall be given instructions concerning the use and storage of jail and fire escape keys and shall be held strictly accountable for keys assigned to them.

(4) All jail personnel shall be familiar with the locking system of the jail and shall be able to release inmates promptly in the event of a fire or other emergency.

(5) The jail administrator shall ensure that jail staff make monthly inspections to determine if cell and fire escape locks and doors are in good working order. Each inspection shall be recorded in the jail log.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.12 Administrative confinement. (1) In this section, "administrative confinement" means a nonpunitive, segregated confinement of an inmate in his or her cell or other isolated area solely because he or she is dangerous, to ensure personal safety and security within the jail.

(2) An inmate may be placed in administrative confinement only if the inmate's continued presence in the general population:

(a) Presents a substantial risk of physical harm to the inmate, another person or property;

(b) Threatens the security and order of the jail; or

(c) Inhibits a pending disciplinary investigation.

(3) A jail staff member shall inform his or her immediate supervisor of any incident that may require administrative confinement of an inmate and the supervisor shall determine whether to place the inmate in administrative confinement. In the absence of his or her immediate supervisor, a jail staff member may place an inmate in administrative confinement. The staff member's supervisor shall review that placement decision within 24 hours.

(4) An inmate's progress in administrative confinement shall be periodically reviewed by the jail staff member's immediate supervisor. The supervisor shall determine when the inmate no longer presents a threat to the safety, security and order of the jail and may be released to the general population.

(5) The reason an inmate is placed in administrative confinement and the length of time the inmate remains in administrative confinement

shall be entered in the inmate's file and in the jail log by the jail staff member or his or her immediate supervisor.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.13 Use of force. (1) Jail staff may use physical force against an inmate only if force is necessary to change the location of an inmate or to prevent death or bodily injury to the staff member, the inmate or someone else, unlawful damage to property or the escape of an inmate from the jail. Staff may use only the amount of force reasonably necessary to achieve the objective for which force is used. Corporal punishment of inmates is forbidden.

(2) Any staff member who has used force to control an inmate or inmates shall submit a written report to the sheriff, jail administrator or the staff member's immediate supervisor describing the incident. The report shall include all known relevant facts.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.14 Discipline. (1) **INMATE RULES OF BEHAVIOR.** Every jail shall have written rules of behavior for inmates. At the time of admission, each person shall be notified verbally of the existence of the jail's rules for inmate behavior and the potential disciplinary actions imposed for violation of the rules. Each inmate shall be provided with a copy of the jail rules or copies of the rules shall be posted in conspicuous places in the jail.

(2) **DISCIPLINE FOR A MINOR VIOLATION.** (a) In this subsection, "minor violation" means a violation of the jail's rules of behavior for which a minor penalty or penalties may be imposed if the accused inmate is found guilty. A minor penalty is a verbal or written reprimand, restriction of privileges for 24 hours or less or placement in punitive segregation for 24 hours or less.

(b) A staff member who observes an inmate committing a minor violation shall inform the inmate of the rule that he or she has violated, the contemplated penalty and the disciplinary procedures for minor violations under pars. (c) to (g).

(c) The staff member shall give the inmate an opportunity to make a verbal statement about the alleged violation to the staff member.

(d) The staff member may impose a minor penalty if he or she finds that a violation occurred.

(e) The staff member shall inform his or her supervisor of the incident and the penalty administered as soon as the supervisor is available. The supervisor shall review the incident and penalty administered. If the supervisor concludes that the violation constitutes a major violation, the alleged infraction shall be handled in accordance with sub. (3). If the supervisor finds that no violation has occurred, the inmate shall be notified that the charge has been dismissed.

(f) The inmate may appeal the supervisor's decision. The jail shall have a procedure for an inmate to follow if the inmate wishes to appeal that decision. The inmate shall be notified of his or her right to appeal the supervisor's decision and of the jail's procedure for making the appeal.

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(g) Information about the incident, the penalty administered and the supervisor's decision shall be made part of the inmate's file and shall be entered in the jail log. If the supervisor finds that no violation occurred or if the reviewer of an appeal submitted under par. (f) finds that no violation occurred, the records of the incident shall be removed from the inmate's file.

(3) DISCIPLINE FOR A MAJOR VIOLATION. (a) In this subsection, "major violation" means a violation of the jail's rules of behavior for which a major penalty or penalties may be imposed if the accused inmate is found guilty. A major penalty is restriction of privileges for more than 24 hours, placement in solitary confinement for more than 24 hours in accordance with s. 53.40, Stats., loss of good time in accordance with s. 53.42, Stats., restrictions affecting Huber law privileges in accordance with s. 56.08, Stats., or restrictions affecting work release in accordance with s. 56.065, Stats.

(b) A staff member who observes an inmate committing a major violation shall submit a written report to his or her supervisor within 24 hours of the incident. The report shall include:

1. A formal statement of the charge or charges, including the specific rule or rules violated;
2. A detailed description of the facts concerning the incident, including the date and time of the incident;
3. Any unusual inmate behavior;
4. Staff and inmate witnesses;
5. The disposition of any physical evidence;
6. Any immediate action taken, including the use of force; and
7. The staff member's signature and the time and date of the report.

(c) The inmate shall be notified of the charges and of his or her right to a hearing under par. (d) at least 24 hours in advance of the hearing. The inmate may waive this time requirement.

(d) A due process hearing shall be held unless the inmate waives his or her right to a hearing. An inmate may waive the right to a due process hearing in writing at any time. If the inmate waives the right to a due process hearing, the violation shall be disposed of in accordance with the procedures for minor violations under sub. (2), except that a major penalty may be imposed if the relevant staff member finds a violation occurred. A waiver does not constitute an admission of the alleged violation.

(e) An impartial hearing officer or committee shall conduct the due process hearing. The hearing may not be conducted by a person who may review an appeal made under par. (j) or who has personally observed, been a part of or investigated the incident which is the subject of the hearing.

(f) The inmate has the right to be present at the hearing, to make a statement and to present relevant evidence. If the inmate refuses to attend the hearing or disrupts the hearing, the hearing may be conducted without the inmate being present. The hearing officer or committee may

hear the testimony of a witness outside the presence of the accused inmate if there is a significant risk of bodily harm to the witness in testifying in front of the accused inmate. The reason for the accused inmate's absence shall be documented.

(g) The inmate has the right to present any relevant witness whose testimony is not cumulative of other evidence unless the safety of any other witness or the security of the jail would be threatened if that witness testified. The reasons for the absence of the witness shall be documented.

(h) If the inmate is illiterate or the issues are complex, the inmate has the right to a staff advocate or adequate substitute aid to assist him or her in understanding the charges and preparing a defense.

(i) The hearing officer or committee shall issue a written decision which shall state the punishment to be administered. The inmate shall receive a written copy of the decision before punishment is administered.

(j) The inmate shall be notified of his or her right to appeal the hearing officer's or committee's decision and of the jail's procedure for making an appeal.

(k) Information on the incident, the punishment administered and the hearing officer's or committee's decision shall be made part of the inmate's file and shall be entered in the jail log. If the hearing officer or committee or the reviewer under par. (j), upon appeal, finds that no violation occurred, the record of the incident shall be removed from the inmate's file.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.

HSS 350.15 Exceptions. (a) The department may grant a variance to a requirement found in s. HSS 350.05 or 350.06, except that no variance may be granted for the requirement of single occupancy cells under s. HSS 350.05 (3) (b) or 350.06 (2) or for the minimum cell space requirement under s. HSS 350.05 (3) (c) or 350.06 (3).

(b) In order to obtain a variance, the jail administrator shall demonstrate in writing that strict enforcement of the rule would result in unreasonable hardship for administration of the jail and that the variance would provide equivalent or better protection for the health, safety, welfare and rights of inmates and the public.

(c) The department may impose specific conditions including time limits on a variance in order to protect the health, safety, rights or welfare of inmates or the public.

(d) Violation of any condition under which a variance is granted constitutes a violation of this chapter. Upon finding that there has been a violation of a condition of the variance, the department may revoke the variance and require strict enforcement of the rule.

History: Cr. Register, February, 1990, No. 410, eff. 3-1-90.