

## CHAPTER 53.

## STATE PRISON.

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**53.01 State prison.** (1) The state prison shall be the general penitentiary and prison for the punishment and reformation of all offenders committed and sentenced according to law by any court of the state of Wisconsin or any court of the United States held in the districts of Wisconsin to imprisonment therein.

(2) For the purpose of all judicial proceedings the prison and precincts thereof shall be deemed to be within and a part of the county of Dodge, and the courts of said county shall have jurisdiction of all crimes and offenses committed within the same, provided that any farming, forestry, quarrying, or other activity conducted under the jurisdiction of and by said prison, no matter where located, shall be deemed and is hereby made a precinct of said prison.

(3) All process served within the precincts of the prison, either upon convicts or upon persons or officers employed therein, except the warden and deputy warden, shall be served and returned by the warden or deputy warden; and all officers and employes of the prison are exempt from military duty, and from serving on juries in any court. [1937 c. 119]

**Note:** By (2) one who escapes from prison on farm, whether located within or without Dodge county, may be prosecuted in courts of Dodge county. 26 Atty. Gen. 259.

**53.02 Warden; duties, oath, bond.** (1) The warden shall, under the direction of the state department of public welfare, have the charge and custody of the prison, with all lands, buildings, furniture, tools, implements, stock and provisions and every other species of property pertaining thereto or within the precincts thereof, and superintend the police of the prison and discipline of the convicts. He shall enforce the regulations of the department for the government of the officers and convicts of the prison; shall reside in the warden's residence on the prison property; and neither he nor any other officer or employe of the prison shall, directly or indirectly, have any interest or concern pecuniarily in any contract, either verbal or written, which may be entered into for any purposes whatever connected with the business of the prison.

(2) The warden shall take and file an official oath and execute and file an official bond in the sum of \$20,000 with sureties approved by the department; and whenever the department deems further security necessary it may require the warden to execute and file an additional bond or bonds and fix the amount thereof. [1943 c. 93]

**Note:** State board of control and warden with prisoners without presence of officer of institution. 27 Atty. Gen. 305.

**53.03 Deputy warden.** The deputy warden shall perform the duties of the warden in the absence of that officer, reside within the prison grounds, and, under the direction of the warden, assist in administering the government and discipline of the prison; and he shall perform all the duties, have all the powers and be subject to all the obligations and liabilities of the warden in case of the disability of that officer or vacancy in that office.

**53.04 Delivery of convict to prison.** (1) The sheriff of each county shall convey to the state prison every person convicted in his county and sentenced to be confined in said prison as soon as may be after such conviction and sentence; and after delivering such convict to the warden, together with a copy of the certificate of conviction of the court ordering such imprisonment, the warden shall deliver to such sheriff a receipt, acknowledging receipt of the prisoner, naming him, which receipt the said sheriff shall file in the office of the clerk of the court where such conviction and sentence were had. Such sheriff shall be entitled to receive from said county the amount actually and necessarily ex-

pended by him in transporting such prisoner, including the amount paid for boarding and lodging and such guards as may have been necessarily employed, and such further reasonable sum as shall be a fair compensation for the time necessarily spent in transporting such prisoner, to be fixed and allowed by the proper auditing officer or auditing board of said county.

(2) Whenever a sheriff shall deliver to the warden a prisoner who is under the influence of spirituous liquors said warden shall state such fact in his receipt to the sheriff and send a duplicate of said receipt to the clerk of the court where the conviction and sentence of such prisoner were had, who shall file the same in his office.

**53.05 Ordinary custody and maintenance.** (1) All convicts in the prison shall be in the charge and custody of the warden, who shall govern and employ them in the manner prescribed by law and regulations of the prison and in conformity to the respective sentences under which they were committed.

(2) Spirituous liquors or any articles of indulgence shall not be allowed any convict except by order of the physician, which shall be in writing and for a definite period, not exceeding one month; but the warden may in his discretion make a moderate allowance of tea or tobacco to convicts as a reward for industry and good behavior.

**53.06 Religious ministrations, and other instruction.** (1) The chaplain shall hold divine service in the chapel once on each Sunday, instruct the prisoners in their moral and religious duties and visit the sick on suitable occasions. He shall also act as librarian and prepare and keep a list of the number and titles of the books in the library; be in attendance at the prison daily during usual business hours, unless excused by the warden; devote not less than 3 hours per day, once in each week, and oftener, if the state department of public welfare shall consider it necessary, to instructing those prisoners who need such instruction in the common branches of English education; and with the consent of the warden call to his assistance in such educational labors such convicts as he may deem qualified. He shall make full report to the warden on the thirtieth day of June in each even-numbered year of all matters connected with his labors during the preceding term; the substance of which report shall be embodied in the report of the warden to the board.

(2) A Catholic clergyman may also be engaged by the warden to hold services once each month for the benefit of prisoners of that faith, at an expense not exceeding \$200 per annum. [1943 c. 93]

**53.07 Maintenance of authority and order.** All necessary means shall be used, under the direction of the warden, to maintain order in the prison, enforce obedience, suppress insurrections and effectually prevent escapes, even at the hazard of life; for which purpose he may at all times command the aid of the officers of the institution and of the citizens outside of the precincts of the prison; and any citizen refusing to obey such command shall be held liable to such fines, penalties and forfeitures as apply to persons refusing to obey a sheriff or other officer calling upon the aid of the county to assist in serving a process or for quelling insurrection.

**53.08 Humane treatment and punishment.** The warden and all prison officers shall uniformly treat prisoners with kindness, and the warden shall require of the officers that, in the execution of their respective duties, they shall, in all cases, refrain from boisterous and unbecoming language in giving their orders and commands. There shall be no corporal or other painful and unusual punishment inflicted upon convicts for violation of prison rules.

**53.09 Hard labor and restrictions.** All convicts sentenced to the punishment of hard labor in said prison shall be constantly employed for the benefit of the state, as provided in chapter 56 of the statutes. Communication shall not be allowed between male and female convicts, or between convicts and any person without the prison, except under supervision, as prescribed in the regulations of the prison. They shall be confined in separate cells in the nighttime, and in the daytime all intercourse between them shall, as far as practicable, be prevented.

**53.10 Solitary confinement.** (1) Every convict against whom the punishment of solitary imprisonment shall be awarded by sentence of the court or for violation of any of the rules and regulations of the prison shall be confined to one of the solitary cells, and during such confinement shall be fed on bread and water only, unless a physician, called upon to ascertain the fact, shall certify to the warden that the health of such convict requires other diet.

(2) When any convict sentenced to periodical terms of solitary confinement, who shall obtain from the deputy warden a certificate that such convict has suffered at least one term of solitary confinement and that ever after such term the conduct of such convict has been good for peaceful obedience, industry and integrity, the state department of public welfare may exempt him from further solitary confinement during good behavior.

[1943 c. 93]

**53.11 Credit for good conduct; forfeiture for bad.** (1) The deputy warden shall keep a true record of the conduct of each convict, specifying each infraction of the rules of discipline. At the end of each month the said deputy shall give a certificate of good conduct to each convict who shall require it, against whom is recorded no infraction of the rules of discipline. Every convict who is now or may be hereafter confined in the state prison and shall conduct himself in a peaceful and obedient manner and faithfully perform all the duties required of him shall be entitled to a diminution of time from the term of his sentence, not exceeding the amounts specified in the following table, for the respective years of his sentence and pro rata for any part of a year, where the sentence is for more than a year:

|                             | Good time granted. |
|-----------------------------|--------------------|
| First year .....            | One month          |
| Second year .....           | Two months         |
| Third year .....            | Three months       |
| Fourth year .....           | Four months        |
| Fifth year .....            | Five months        |
| Every year thereafter ..... | Six months         |

(2) Any convict who violates any regulation of the prison or refuses or neglects faithfully to perform all the duties required of him, and has become entitled to any diminution of his sentence, shall forfeit from his good time earned, for the first offense, 5 days; for the second offense, 10 days; and for the third and each subsequent offense, 20 days; and in addition thereto, the warden may, with the consent of the state department of public welfare, cancel and deprive him of all or any part of the good time theretofore earned.

(3) Whenever any convict is committed under several convictions with separate sentences they shall be construed as one continuous sentence for the purpose of computing the good time made or forfeited under this section. [1943 c. 93]

**Note:** Good time lost by prisoner by terms of statute may not be restored by board but cancellation of good time by board may be reconsidered. 20 Atty. Gen. 1137.

Prisoner out on conditional pardon given into custody of board of control by governor upon rearrest for violating his parole is still entitled to good time he had earned up to time of his rearrest. 22 Atty. Gen. 13.

Prisoner may voluntarily forfeit good time earned. 24 Atty. Gen. 450.

Good time earned while serving sentences concurrently results in diminution of time, of which prisoner cannot be deprived. 24 Atty. Gen. 557.

Prisoner may earn "good time" when he is out on parole, conditional pardon or any other legal form of release. 25 Atty. Gen. 154.

Under (3) consecutive sentences are to be construed as one continuous sentence for purpose of calculation of credit for good behavior, whether imposed at same time or not. 28 Atty. Gen. 12.

Prisoner who, after commencing to serve sentence, is tried and convicted of another offense for which he is given sentence to run concurrently with one then being served, is entitled to have both sentences treated as one for purposes of calculating credit for good behavior. 29 Atty. Gen. 135.

Paroled prisoner returned to prison for violation of parole and with new sentence for offense committed while on parole to run concurrently with remainder of original sentence, is entitled to have both sentences

treated as one for purpose of calculating credit for good behavior. 29 Atty. Gen. 290.

Escaped prisoner returned to prison with additional sentence for escape, pursuant to 359.07, to run concurrently with remainder of original sentence, is entitled to have both sentences treated as one for purpose of calculating credit for good behavior. 29 Atty. Gen. 290.

Warden of state prison, with consent of department of public welfare, may deprive prisoner of all "good time" theretofore earned as punishment for his first or second offense as well as for third and subsequent offenses where in his judgment facts warrant such action. Paroled prisoner may be deprived of good time theretofore earned, as punishment for violation of his parole, at least if his parole is thereupon revoked. 29 Atty. Gen. 446.

Where prisoner was received at Milwaukee county house of correction on January 12, 1939, with sentence of three years, was paroled October 14, 1940, subsequently violated his parole and was again received at institution on July 19, 1941, with new sentence of one year on new conviction, he must serve so much of his original sentence as remained unexpired at time he violated his parole. Hence he is entitled to have second sentence combined with first for purpose of calculating his good time allowance under 53.11 (1) and 56.19 (3). Since two sentences overlap to some extent, good time will be calculated according to rates applicable to third and fourth sentence years. 31 Atty. Gen. 65.

**53.12 Time credit for labor; earnings; rewards for good conduct.** (1) Every convict employed on construction or other work outside of the prison walls on the honor system, who shall conduct himself in a peaceful and obedient manner, and shall faithfully perform all the duties required of him, shall be entitled to a diminution of time on the ratio of five days for each month of thirty days or fraction thereof, while he is so employed, in addition to the credit for good conduct prescribed by section 53.11.

(2) The state department of public welfare may provide for the payment to convicts of such pecuniary earnings as it may deem proper, under such regulations as it may provide, payable out of the fund provided for carrying on the work in which the prisoner is engaged when employed on state account, and by the contractor when the prisoner is

employed under contract. The rate of such earnings shall vary for different prisoners in accordance with the pecuniary value of the work performed, willingness, and good behavior.

(3) Whenever any convict, by continued good behavior, diligence in labor or study or otherwise, shall surpass the general average of convicts the state department of public welfare may, in its discretion, compensate him therefor by the allowance of a sum of money out of his earnings or otherwise, and said department may adopt rules for the payment to deserving convicts, on their discharge or while in prison, of such sums as it may see fit.

(4) Any money accruing to convicts under this section shall be and remain under the control of the state department of public welfare, to be used for the benefit of the prisoner, his family, or dependent relatives, under such regulations as to time, manner and amount of disbursements as the department may prescribe; but should any such prisoner wilfully escape or become a fugitive from justice, or commit any breach of discipline, the department may, in its discretion, declare the forfeiture of all earnings remaining to the prisoner's credit, and the same shall be replaced in the fund from which it was originally taken or, in the case of earnings paid by the contractor to the prisoner employed under contract, in the current expense fund of the institution. [1943 c. 93]

**53.13 Recapture of escaped convicts.** The warden may adopt such measures as he may deem proper to aid in detecting and capturing escaped convicts.

**Note:** Escaped prisoner may be followed by warden and recaptured without new warrant being issued. If warden has reasonable grounds to believe that prisoner is in house he has a right to break into house, but should first ask for admittance in case of misdemeanor. 22 Atty. Gen. 103.

**53.14 Burial of deceased convicts.** The warden shall, in case of the death of any convict, cause the body to be decently buried or deliver it to the relatives or friends of such convict, if demanded by them within twenty-four hours.

**53.15 Property of convicts; bonus and employment on discharge.** (1) The money and effects, except the clothes, in possession of each convict when committed to the state prison shall be preserved by the warden and restored to the convict when discharged.

(2) Every convict, when discharged, shall be provided with a decent suit of clothes and a sum of money, not to exceed \$5, in addition to transportation, or the means to procure the same, from Waupun to any place within this state, which the warden may, at his discretion and as necessity may seem to require, furnish; and may also be allowed employment in the prison, under the rules established for the government of convicts, for such period of time and at such rate of compensation as the warden, under the direction of the state department of public welfare, shall deem proper and equitable. [1943 c. 93]

**53.16 United States convicts.** The warden shall receive into the state prison all persons convicted before any court of the United States, held within the state of Wisconsin, and sentenced by such court to the punishment of imprisonment at hard labor in said prison, and shall safely keep and employ each such convict pursuant to his sentence and the regulations of the prison, until such sentence shall be performed or the said convict be otherwise discharged by due course of law of the United States.

**53.17 Settlement of accounts for maintenance.** (1) The warden once every six months shall make out and present for settlement to the proper auditing officer of the United States for this state a certified account of the amount which shall then be due and unsettled for the support and maintenance of United States convicts in the state prison of this state.

(2) Whenever said account shall have been audited and allowed, as provided by law, the warden shall file with the secretary of state a copy of such account with the amount allowed thereon. The secretary of state shall thereupon draw his warrant upon the state treasurer for the amount so allowed, payable to the warden out of the state treasury, when the same shall be received from the United States.

**53.18 Special report concerning United States convicts.** The warden when making his biennial report shall include therein the number of United States convicts in the prison at the date of such report, the whole number therein during the preceding term, the number received and the number discharged during the same time, the amount received from the general government for their support and maintenance and also the amount that may then be due and unaudited for like purpose.

**53.25 Wisconsin prison for women.** (1) There is established on the grounds of the industrial home for women at Taycheedah a separate unit to be known as "The Wisconsin Prison for Women."

(2) The superintendent of the industrial home for women shall be the superintendent of the Wisconsin prison for women.

(4) For the purpose of all judicial proceedings, the Wisconsin prison for women and precincts thereof shall be deemed to be within and part of the county of Fond du Lac, and

the courts of said county shall have jurisdiction of all crimes and offenses committed within the same. [1933 c. 209; 1937 c. 119; 1943 c. 275 s. 21]

**53.26 Government.** All provisions of chapter 53 in so far as applicable shall apply to the Wisconsin prison for women, and all powers therein conferred upon the warden of the state prison are conferred upon the superintendent of the Wisconsin prison for women. [1933 c. 209]

**53.27 Other statutes applicable.** (1) All female persons not included within any of the classes enumerated in section 54.02 and subject to sentence and imprisonment in the state prison shall upon conviction be sentenced to the Wisconsin prison for women and not to the state prison.

(2) All statutes governing the sentence, imprisonment and disposition of cases of female persons not enumerated in section 54.02 shall apply in all cases of such persons when subject to sentence in the Wisconsin prison for women in the same manner and to the same extent as though such sentence had been made to the state prison. [1933 c. 209]

**53.28 Purchase of Milwaukee house of correction for state penal purposes authorized.** (1) The state department of public welfare is authorized to purchase all the lands, buildings and existing equipment of the house of correction of Milwaukee county, to be used for state penal purposes. The purchase price shall not exceed \$250,000 and may be paid from the appropriation made by subsection (11) of section 20.17. All negotiations in connection with such purchase shall be subject to the approval of the emergency board.

(2) Upon the purchase by the state of such property, it shall be known as the "Wisconsin House of Correction" and the management thereof shall be under the state department of public welfare. In the execution of such management said department shall exercise and perform such powers, duties and functions as it exercises and performs with respect to other institutions under its jurisdiction.

(3) All provisions of the statutes, in so far as applicable, relating to the sentence, imprisonment and disposition of male persons, parole, commission in lunacy proceedings and other powers, duties and functions of the Wisconsin state prison are made applicable to the Wisconsin house of correction and all powers conferred on the warden of the state prison by chapter 53 are conferred upon the superintendent of the Wisconsin house of correction.

(4) Whenever in the judgment of the department of public welfare, a transfer of any inmate of the state prison or state reformatory, or both, to another penal institution is deemed to be for the best interests of the person so transferred, or to the institution from which such transfer is made, the department may transfer such inmates to the Wisconsin house of correction and may transfer inmates of the Wisconsin house of correction to either the Wisconsin state prison or the Wisconsin state reformatory, notwithstanding any other provision of law. Any court having the power to sentence persons to any state penal institution shall have power to sentence also to the Wisconsin house of correction.

(5) The department of public welfare may for a consideration to be fixed by it at a sum not greater than the per capita cost of caring for inmates in the Wisconsin house of correction, authorize the superintendent of the Wisconsin house of correction to receive and have the custody of male persons sentenced by the county, district, superior, municipal, or circuit court of any county or the police court of any municipality in such county, for the violation of any local ordinance or of any state law not amounting to a felony. [1941 c. 314]