

CHAPTER 53

PRISONS; STATE, COUNTY AND MUNICIPAL

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53.01 Names of prisons. The penitentiary at Waupun is named "Wisconsin State Prison". The correctional treatment center at Waupun is named "Wisconsin Treatment Institution". The medium security penitentiary near Fox Lake is named "Wisconsin Correctional Institution". The penitentiary at Taycheedah is named "Taycheedah Correctional Institution". The penitentiary at Green Bay is named "Wisconsin State Reformatory". The medium security penitentiary at Plymouth is named "Kettle Moraine Correctional Institution". The institutions named in this section, the Wisconsin correctional camp system and the Wisconsin correctional reception and treatment center, when established under s. 46.043, are state prisons.

History: 1973 c. 90; 1975 c. 39; 1975 c. 189 s. 99 (1); 1975 c. 224, 422

53.02 Jurisdiction and extent of state prisons; service of process therein. (1) WISCONSIN STATE PRISON. For all purposes of discipline and for judicial proceedings, the Wisconsin state prison and the precincts thereof shall be deemed to be in Dodge county, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the prison, wherever located, is a precinct of the prison; and each precinct is part of the prison.

(2) WISCONSIN STATE REFORMATORY. For all purposes of discipline and for judicial proceedings, the Wisconsin state reformatory and the precincts thereof shall be deemed to be in Brown

county, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the reformatory, wherever located, is a precinct of the reformatory; and each precinct is part of the reformatory.

(3) TAYCHEEDAH CORRECTIONAL INSTITUTION. For all purposes of discipline and for judicial proceedings, the Taycheedah correctional institution and the precincts thereof shall be deemed to be in Fond du Lac county, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by such correctional institution, wherever located, is a precinct of the correctional institution; and each precinct is part of the correctional institution.

(4) WISCONSIN CORRECTIONAL INSTITUTION. For all purposes of discipline and for judicial proceedings, the Wisconsin correctional institution and the precincts thereof are deemed to be in Dodge county, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the Wisconsin correctional institution wherever located is a precinct of the institution.

(4a) WISCONSIN CORRECTIONAL CAMP SYSTEM. For all purposes of discipline and judicial proceedings the Wisconsin correctional camp system and precincts thereof shall be deemed, as to each inmate, to be in the county in which the camp or facility to which the inmate is assigned is

located, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the Wisconsin correctional camp system wherever located is, as to each inmate, a precinct of the camp or other facility to which he is assigned.

(4c) KETTLE MORAINÉ CORRECTIONAL INSTITUTION. For all purposes of discipline and for judicial proceedings, the Kettle Moraine correctional institution and the precincts thereof are deemed to be in Sheboygan county, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the Kettle Moraine correctional institution wherever located is a precinct of the institution.

(4d) WISCONSIN TREATMENT INSTITUTION. For all purposes of discipline and for judicial proceedings, the Wisconsin treatment institution and the precincts thereof shall be deemed to be in Dodge county, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity conducted under the jurisdiction of and by the Wisconsin treatment institution, wherever located, is a precinct of the institution; and each precinct is part of the institution.

(4m) THE WISCONSIN CORRECTIONAL RECEPTION AND TREATMENT CENTER. For all purposes of discipline and for judicial proceedings, the Wisconsin correctional reception and treatment center designated by the department and the precincts thereof are deemed to be in the county in which the center is located, and the courts of that county shall have jurisdiction of all crimes committed within the same. Every activity, wherever located, conducted by, and under the jurisdiction of, the Wisconsin correctional reception and treatment center is deemed to be within a precinct of the center.

(5) SERVICE OF PROCESS. (a) Service of process may be made on the warden or superintendent of any prison named in s. 53.01 as upon any other resident of this state.

(b) Except as provided in par. (a), service of process within any such prison on any officer or employe or inmate thereof shall be made by the warden or superintendent or some person appointed by him to serve process.

History: 1973 c. 90; 1975 c. 39, 189, 224

53.03 Oath of office; bond. (1) The wardens and the superintendents of the state prisons shall each take the official oath required by s. 19.01.

(2) They shall each execute the official bond required by section 19.01, the amount of which shall be fixed by the department, with surety or sureties approved by the department.

53.04 Duties of warden and superintendents. The warden or the superintendent of each state prison shall have charge and custody of his prison and all lands, belongings, furniture, implements, stock and provisions and every other species of property within the same or pertaining thereto. He shall enforce the regulations of the department for the administration of the prison and for the government of its officers and the discipline of its inmates.

53.05 Wisconsin treatment institution. A section of central state hospital shall be designated a correctional treatment facility for the social rehabilitation and treatment of substance abuse of inmates transferred from Wisconsin state prisons. This section shall be administered by the department and shall be known as the Wisconsin treatment institution. The department shall ensure that the patients at central state hospital and the inmates at the treatment institution:

(1) Have access to all those facilities which are available at the hospital and institution and are necessary for the treatment and rehabilitation programs designed by the department.

(2) Are housed on separate wards.

History: 1975 c. 39, 224.

53.06 Delivery of persons to prisons. The sheriff shall deliver to the reception center designated by the department every person convicted in the county and sentenced to the Wisconsin state prisons as soon as may be after sentence, together with a copy of the judgment of conviction. The warden or superintendent shall deliver to the sheriff a receipt acknowledging receipt of the prisoner, naming the prisoner, which receipt the sheriff shall file in the office of the clerk who issued the copy of the judgment of conviction. When transporting or delivering a client to any of the Wisconsin state prisons the sheriff shall be accompanied by an adult of the same sex as the client. If the sheriff and the client are of the same sex, this requirement shall be deemed satisfied and a third person shall not be required.

History: 1975 c. 94; 1975 c. 189 s. 99 (1); 1975 c. 224 s. 146m

53.07 Maintenance of order. The warden or superintendent shall maintain order, enforce obedience, suppress riots and prevent escapes. For such purposes he may command the aid of the officers of the institution and of persons outside of the prison; and any person who fails to obey such command shall be punished by imprisonment in the county jail not more than one year or by a fine not exceeding \$500. The

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warden or superintendent may adopt proper means to capture escaped inmates.

53.08 Humane treatment and punishment. The wardens and the superintendents and all prison officials shall uniformly treat the inmates with kindness. There shall be no corporal or other painful and unusual punishment inflicted upon inmates.

53.09 Labor and communications. Inmates shall be employed as provided in chapter 56. Communication shall not be allowed between inmates and any person outside the prison except as prescribed by the prison regulations.

The department may be required to justify a refusal to allow a prisoner to write the Veterans Administration concerning the adequacy of his medical treatment. *State ex rel. Thomas v. State*, 55 W (2d) 343, 198 NW (2d) 675.

Dividing line between publications which may be denied prisoners and those which may not is a matter not of administrative grace but of constitutional right. *Gaugh v. Schmidt*, 369 F Supp. 877.

The state has no legitimate interest in requiring an inmate to sign an authorization form to have incoming and outgoing mail examined and no sanction of any kind may be imposed for refusal to sign it. *Stone v. Schmidt*, 398 F Supp. 768.

53.095 Delivering articles to inmate. Any officer or other person who delivers or procures to be delivered or has in his possession with intent to deliver to any inmate confined in a state prison or shall deposit or conceal in or about a prison, or the precincts thereof, or in any vehicle going into the premises belonging to a prison, any article or thing whatever, with intent that any inmate confined therein shall obtain or receive the same, or who receives from any inmate any article or thing whatever with intent to convey the same out of a prison, contrary to the rules or regulations and without the knowledge or permission of the warden or superintendent thereof, shall be imprisoned not more than 2 years or fined not exceeding \$500.

53.10 Solitary confinement. For violation of the rules of the prison an inmate may be confined to a solitary cell, under the care and advice of the physician.

53.11 Credit for good conduct; forfeiture for bad; parole. (1) The warden or superintendent shall keep a record of the conduct of each inmate, specifying each infraction of the rules. Each inmate who shall conduct himself in a proper manner and perform all the duties required of him shall be entitled to good time or diminution of sentence according to the following table, prorated for any part of a year: First year, one month; second year, 2 months; third year, 3 months; fourth year, 4 months; fifth year, 5 months; every year thereafter, 6 months.

(2) Any inmate who violates any regulation of the prison or refuses or neglects to perform the duties required of him shall be subject to forfeiture of any good time previously granted or earned under this chapter, 5 days for the first offense, 10 days for the second offense and 20 days for the third or each subsequent offense. Good time so forfeited shall not be restored. In addition, the department, or the warden or the superintendent, with the approval of the department, may cancel all or part of such good time.

(2a) A parolee earns good time at the rate prescribed in this section. The department may forfeit all or part of the good time previously earned under this chapter, for violation of the conditions of parole, whether or not the parole is revoked for such misconduct.

(3) Whenever any inmate is committed under several convictions with separate consecutive sentences they shall be construed as one continuous sentence for the purpose of computing good time earned or forfeited under this section. All other sentences, whenever imposed, shall be deemed first sentences for purpose of computing good time; but no more good time shall be granted for any one year than is specified in subsection (1), as modified by section 53.12 (1).

(4) An inmate may waive his good time.

(5) The time during which an inmate who escaped is at large shall not be computed as time served.

(6) Allowances for good conduct earned in any institution shall be allowed in the institution to which an inmate may be transferred.

(7) (a) An inmate or parolee having served the term for which he has been sentenced for a crime committed after May 27, 1951, less good time earned under this chapter and not forfeited as herein provided, shall be released on parole or continued on parole, subject to all provisions of law and department regulations relating to paroled prisoners, until the expiration of the maximum term for which he was sentenced without deduction of such good time, or until discharged from parole by the department, whichever is sooner.

(b) Any person on parole under this subsection may be returned to prison as provided in s. 57.06 (3) or s. 57.07 (2) to serve the remainder of his sentence. He may earn good time on the balance of such sentence while so in prison, subject to forfeiture thereof for misconduct as herein provided. Subject to the approval of the department, he may again be released on parole thereafter under either this section or s. 57.06 or s. 57.07, whichever is applicable. The remainder of his sentence shall be deemed to be

the amount by which his original sentence was reduced by good time.

(8) Releases from the prisons, except those under ch. 57, shall be on the Tuesday or the Wednesday preceding the release date.

See note to 57.06, citing State ex rel. Johnson v. Cady, 50 W (2d) 540, 185 NW (2d) 306.

The department cannot delegate to a review board the authority to forfeit good time; it cannot affirm the decision of such a board. State ex rel. Farrell v. Schubert, 52 W (2d) 351, 190 NW (2d) 529.

Due process requirements in a disciplinary proceeding listed Steele v. Gray, 64 W (2d) 422, 219 NW (2d) 312. Rehearing.

A defendant convicted of a sex crime and committed to the department of health and social services for a mandatory examination not to exceed 60 days to determine whether he is in need of specialized treatment is not entitled to credit therefor against a maximum sentence thereafter imposed. Mitchell v. State, 69 W (2d) 695, 230 NW (2d) 884.

Subsequent to the revocation of parole, a mandatory release parolee—or a discretionary parolee whose mandatory release has occurred during his parole—is entitled at the discretionary determination as to how much of his good time will be forfeited to at least those due process procedures presently available to a discretionary parole violator in the same situation Putnam v. McCauley, 70 W (2d) 256, 234 NW (2d) 75.

The department is not at this time required by law to restore forfeited good time allowances or immediately to release anyone committed under the sex crimes act whose maximum term of commitment including forfeited good time has not expired 61 Atty Gen 77.

A prisoner released on parole is not entitled to an absolute discharge because this was granted other prisoners, in the absence of a showing of an abuse of discretion by the department Hansen v. Schmidt, 329 F Supp. 141.

A prisoner is not entitled to counsel at a hearing at which his good time is forfeited for parole violation Sanchez v. Schmidt, 352 F Supp. 628.

See note to 973.15, citing Monsour v. Gray, 375 F Supp. 786.

Prisoner whose parole was revoked on or about May 27, 1970 was entitled to a hearing prior to revocation of his good time credits under (2a) Sillman v. Schmidt, 394 F Supp. 1370.

53.12 Credit for diligence; earnings; reward of merit. (1) In addition to the credit for good conduct prescribed in section 53.11, every inmate whose diligence in labor or study surpasses the general average is entitled to a diminution of time at the rate of one day for each 6 days during which he shows such diligence. The diminution shall be made under the rules of the department.

(2) The department may provide by rule for the payment of wages to inmates. The rate of such wages may vary for different prisoners in accordance with the pecuniary value of the work performed, willingness, and good behavior. The payment of wages to inmates working in the prison industries shall be governed by s. 56.01 (4).

(3) If by continued good conduct, diligence or otherwise, an inmate surpasses the general average, the department may provide by rules to compensate him therefor by the allowance of money.

(4) Money accruing under this section remains under the control of the department, to be used for the benefit of the inmate or his family

or dependents, under rules prescribed by the department as to time, manner and amount of disbursements.

History: 1975 c. 396.

53.13 Property of inmates; donations and transportation on discharge. The money and effects (except clothes) in possession of an inmate when admitted to the prison shall be preserved and shall be restored to him when discharged. When released on discharge or parole he shall be given adequate clothing and an amount of cash determined by department rules in addition to transportation or the means to procure transportation from the prison to any place in this state. If released on parole this amount shall be given under rules promulgated by the department.

History: 1973 c. 90.

53.14 Property of deceased inmates, parolees or probationers, disposition. When an inmate of a prison or a parolee of an institution or a person on probation to the department of health and social services dies leaving an estate of \$150 or less in the trust of the warden, the superintendent or the secretary, such warden, superintendent or secretary shall make effort to determine whether or not such estate is to be probated. If probate proceedings are not commenced within 90 days, the warden, the superintendent or the secretary is authorized and directed to turn over the money or securities in his hands to the nearest of kin as evidenced by the records of the institution and the department.

53.15 Activities off grounds. The wardens and superintendents of the state prisons, and all wardens and superintendents of county prisons, jails, camps and houses of correction enumerated in ch. 56, may take inmates away from the institution grounds for rehabilitative and educational activities approved by the department and under such supervision as the superintendent or warden deems necessary. While away from the institution grounds an inmate is deemed to be under the care and control of the institution in which he is an inmate and subject to its rules and discipline.

History: 1971 c. 54.

53.17 Register of inmates. When any inmate is received into any state penal institution the department shall register the date of admission, the name, age, nativity and nationality and such other facts as may be obtained as to parentage, education and previous history and environments of such inmate. Entries shall be made on the register of the progress made by each inmate and his parole and his condition at

the time of parole and the progress made by him while on parole.

53.18 Transfers of inmates. (1) Inmates of a prison may be transferred and retransferred to another prison by the department.

(2) Inmates of the Milwaukee county house of correction may be transferred to a state prison. If any county discontinues its house of correction, inmates at the time of such discontinuance may be transferred to the state prison or to the county jail of the county as the commitment indicates.

(4) With each person transferred to a state prison from another institution, the warden or superintendent of such other institution shall transmit the original commitment and the institutional record pertaining to such person.

(5) Any person who is legally transferred by the department to a penal institution shall be subject to the same statutes, regulations and discipline as if he had been originally sentenced to that institution, but the transfer shall not change the term of sentence.

53.19 Temporary detention of inmates. The department may use any of its facilities for the temporary detention of persons in its custody.

53.20 Uniforms for correctional officers. The department shall furnish and, from time to time replace, a standard uniform to be prescribed by the department including items of clothing (not including overcoats), shoulder patches, caps, lapel insignia, and badge to each correctional officer in the department who is required to wear such standard uniform.

53.21 Vocational education program in auto body repair at the Wisconsin state reformatory. (1) The department may maintain and operate a vocational education program in auto body repair at the Wisconsin state reformatory. Notwithstanding s. 56.06, in connection with the vocational education program the reformatory may receive from licensed automobile dealers and regularly established automobile repair shops vehicles to be repaired, painted or otherwise processed by residents enrolled in the program.

(2) Prices for repairing, painting or otherwise processing vehicles in the program shall be fixed as near as possible to the market value of the labor and materials furnished. Proceeds received from the repairing, painting or other processing of vehicles shall be deposited as provided in s. 20.435 (3) (h) and shall be available to the reformatory to purchase materials, supplies and

equipment necessary to operate the vocational education program in auto body repair.

History: 1975 c. 224

53.30 Definition of jail. As used in ss. 53.30 to 53.43, the word "jail" includes municipal prisons and rehabilitation facilities established by s. 59.07 (76) by whatever name they are known.

53.31 Use of jails. The county jail may be used for the detention of persons charged with crime and committed for trial; for the detention of persons committed to secure their attendance as witnesses; to imprison persons committed pursuant to a sentence or held in custody by the sheriff for any cause authorized by law; for the detention of persons sentenced to imprisonment in state penal institutions or the Milwaukee county house of correction, until they are removed to said institutions; for the temporary detention of persons in the custody of the department; and for other detentions authorized by law.

53.32 Location of jails restricted. No jail, lockup or temporary place of confinement shall be erected within 300 feet of any public, private, parochial or vocational, technical and adult education school building or building used regularly or principally for school purposes, except that the distance from a vocational, technical and adult education school may be reduced to 150 feet if the jail proper and the entrance thereto are shielded from the view from the school property. Such distances shall be measured via the shortest distance along the street or highway.

History: 1971 c. 154

53.33 Maintenance of prisoners in county jail. The maintenance of persons who have been sentenced to the state penal institutions, persons in the custody of the department, persons accused of crime and committed for trial, persons committed for the nonpayment of fines and expenses, and persons sentenced to imprisonment therein, while in the county jail, shall be paid out of the county treasury; but no claim shall be allowed to any sheriff for keeping or boarding any person in the county jail unless he was lawfully detained therein.

53.34 Use of jail of another county. Courts, judges and officers of any county having no jail may sentence, commit or deliver any person to the jail of any other county as if such jail existed in their own county; and the sheriff of such other county shall receive and keep the prisoner in all respects as if committed from his county; but the cost of such keep shall be paid by the county from

which the prisoner was sentenced, committed or delivered.

Cross Reference: See 973.03 (1) for similar provision.

53.35 Removal of prisoners in emergency. In an emergency and for the safety of prisoners in any jail, the sheriff or other keeper may remove them to a place of safety and there confine them so long as necessary. If any county jail is destroyed or is insecure for keeping prisoners, the sheriff may remove them to some other county jail, where they shall be received and kept as if committed thereto, but at the expense of the county from which they were removed. An indorsement on the commitment of a prisoner, made by the sheriff in charge of such prisoner, directed to the sheriff of another county, shall be authority for the latter to hold the prisoner.

53.36 Segregation of prisoners. All jails shall be provided with suitable wards or buildings for the separation of criminals from noncriminals; persons of different sexes; and persons alleged to be mentally ill. All prisoners shall be kept segregated accordingly.

53.37 Maintenance of jail and care of prisoners. (1) The sheriff or other keeper of a jail shall constantly keep it clean and in a healthful condition and pay strict attention to the personal cleanliness of the prisoners and shall cause the clothing of each prisoner to be properly laundered. He shall furnish each prisoner with clean water, towels and bedding. He shall serve each prisoner 3 times daily with enough well-cooked, wholesome food. The county board shall prescribe an adequate diet for the prisoners in the county jail.

(2) Neither the sheriff or other keeper of any jail nor any other person shall give, sell or deliver to any prisoner for any cause whatever any spirituous liquor or wine or cider or beer unless a physician certifies in writing that the health of the prisoner requires it, in which case he may be allowed the quantity prescribed.

(3) The county or municipality shall furnish its jail with necessary bedding, clothing, toilet facilities, light and heat for prisoners.

(4) The sheriff or other keeper of a jail is authorized to use without compensation the labor of those sentenced to actual confinement in the county jail in the maintaining of, and the housekeeping of the jail, including the property on which it stands. Any prisoner who escapes while working on the grounds outside the jail enclosure shall be punished as provided in s. 946.42.

53.375 Giving liquor to prisoners; mingling sexes. Any sheriff, jailer or keeper of any prison or any other person who shall sell, give or deliver to any prisoner, or wilfully or negligently permit any such prisoner to have any spirituous or intoxicating liquor, and any prisoner who shall use such liquor, in violation of s. 53.37 (2), or who shall have in his possession in the precincts of any prison, with intent to sell, give or deliver the same to some prisoner, such spirituous or intoxicating liquor, or who shall place or keep together or knowingly permit to be kept together prisoners of different sexes, shall be punished by fine not exceeding \$100, or by imprisonment in the county jail not less than 30 days nor more than 6 months.

53.38 Medical care of prisoners. If a prisoner needs medical or hospital care or is intoxicated or incapacitated by alcohol the sheriff or other keeper of the jail shall provide appropriate care or treatment and may transfer him to a hospital or to an approved treatment facility under s. 51.45 (2) (b) and (c), making provision for the security of the prisoner. The costs of medical and hospital care outside of the jail shall (if the prisoner is unable to pay for it) in the case of persons held under the state criminal laws or for contempt of court, be borne by the county and in the case of persons held under municipal ordinance by the municipality. The governmental unit paying such costs of medical or hospital care may collect the value of the same from him or his estate as provided for in s. 49.08.

History: 1973 c 198

53.39 Freedom of worship; religious ministrations. Insofar as practicable, s. 46.066 shall apply to county jails.

53.40 Discipline; solitary confinement. For violating the rules of the jail, an inmate may be kept in solitary confinement, under the care and advice of a physician, but not over 10 days.

Pretrial detainees in jail are entitled to a due process hearing prior to more than slight deprivation of privileges, including loss of any privilege for more than one day. Representation by counsel is not essential. *Inmates of Milwaukee Co. Jail v. Petersen*, 353 F.Supp. 1157.

53.41 Care of prisoners. Whenever there is a prisoner in any jail there shall be at least one person of the same sex on duty who is wholly responsible to the sheriff or keeper for the custody, cleanliness, food and care of such prisoner.

History: 1975 c 94.

53.42 Jailer constantly at jail. There shall be a keeper or custodian or attendant present at every jail while there is a prisoner therein.

53.43 Good time. Every inmate of a county jail is entitled to a diminution of his sentence in the amount of one-fourth of his term for good behavior if sentenced to at least 4 days, but fractions of a day shall be ignored. An inmate who violates any law or any regulation of the jail, or neglects or refuses to perform any duty lawfully required of him, may be deprived by the sheriff of such good time, except that the sheriff shall not deprive him of more than 2 days good time for any one offense without the approval of the court.

This section is not applicable to persons confined in a county jail as a condition of probation. *Prue v. State*, 63 W (2d) 109, 216NW (2d) 43.

53.44 Cooperation between counties regarding prisoners. Two or more counties

may agree pursuant to s. 66.30 for the cooperative use of the jails of any of them for the detention or imprisonment of prisoners before, during, and after trial and for sharing the expense without reference to s. 53.34. The sheriffs of such counties shall lodge prisoners in any jail authorized by such agreement and shall indorse the commitment, if any, as provided in s. 53.35 in case detention or imprisonment is in the jail of another county. Only jails approved by the department for the detention of prisoners may be used pursuant to such agreement. The sheriff of the county of arrest shall transport the prisoner to and from court and to any other institution whenever necessary.

History: 1975 c. 94.