

NOTICE OF SUBMITTAL TO THE WISCONSIN LEGISLATIVE COUNCIL OF PROPOSED RULE OF THE DEPARTMENT OF CORRECTIONS

NOTICE IS HEREBY GIVEN that pursuant to § 227.15, Wis. Stats., the Department of Corrections proposes an order to repeal and recreate DOC 303, relating to discipline of inmates, to amend DOC 302.17 (11) (c), 302.21 (3) (b) 1., 302.33 (1) (b), 302.34 (1) (a), 302.35 (1) (a), 304.04 (2), 306.05 (4) (a), 308.03 (4) (intro), (b), and (d), 308.04 (4) (e) 5., (5) (a) 2., and (10), 308.04 Note to sub. (4), 309.02 (5), 309.04 (4) (e) 2. and (6), 309.20 (4) (a) 5., (4) (b) 3., (4) (c) 3., (4) (d) 2., and (7), 309.65 (5) (c) 2., 310.08 (3), 310.10 (7), 303 APPENDIX DOC 310.16, PARA 3, 311.07 (2) (f) 3., 313.08 (10), 324.12 (1) (j), 324.13 (6), 327.09 (1) (a), (2) (intro), (2) (b), (2) (c), (2) (d) (intro), (2) (e) (intro), (2) (f), (2) (h), (2) (i), (2) (m) 1., (2) (q) (intro), (2) (r), (2) (s), (2) (t), (2) (u), (2) (v), (2) (w), (2) (x) (intro), (2) (y), (2) (z) (intro), (3), 327.13 (intro), (2), (3), (4), (5), (6), (7), (8), (9), and (10), to repeal DOC 308.03 (6) and (8), 309.02 (13), 309.55 (e) 4., 5., and 6., 327.09 (2) (g), (j), and (n), and to create DOC 308.03 (8m), 309.55 (4) (e) 4. and 5.

SUBJECT MATTER OF THE PROPOSED RULE:

The Rule:

1. Reorganizes and updates the rule chapter.
2. Repeals the following definitions: administrative committee, bodily injury, consent, disruptive conduct, fight, inmate gang, public, riot, staff, and steals.
3. Amends the following definitions: authorized, case record, communicate, contraband, gambling, intoxicating substance, possession, and sexual contact,
4. Creates the following definitions: bodily harm, body specimen, close family member, corporal punishment, department policy, disciplinary committee, disciplinary separation, disturbance, employee, great bodily harm, member of a household, personally identifiable information, record, security threat group, serious mental illness, stalking, substantial bodily harm, substantial involvement, suffer serious emotional distress, targeted person, and victim.
5. Moves definitions which were in the body of the rule into the definition section: contraband, evidence, and gambles.
6. Repeals the following offenses: battery, fighting, inciting a riot, participating in a riot, arson, causing an explosion or fire, creating a hazard, and violation of institution policies and procedures.
7. Creates the following offenses: assault, aggravated assault, assault on staff, sexual contact or intercourse, sexual assault, sexual assault aggravated, stalking, endangering safety, inciting a disturbance, participating in a disturbance, taking a hostage, possession of tobacco, and possession of electronic communication or data storage devices.
8. Modifies the table of automatic major offenses to reflect changes in practice and technologies.
9. Modifies the schedule of penalties to allow more flexibility and use of

- disciplinary segregation in place of adjustment segregation.
10. Requires the retention of property until a final decision is made on a complaint.
 11. Modifies the current rule to allow TLU to await placement in appropriate security level.
 12. Changes battery and fighting to assault, aggravated assault and assault on staff to increase consistency in application of the rule and ensure decision makers have accurate information about dynamics of the offense.
 13. Changes charges related to sexual behavior and assault to sexual conduct, sexual contact or intercourse, sexual assault, and sexual assault aggravated to more accurately reflect changes related to PREA and improve communication of actual dynamics of the offense.
 14. Creates the offense of stalking to clearly identify inmate misconduct.
 15. Creates the offense of taking a hostage in response to inmate conduct that was not currently addressed.
 16. Modifies the elements of “disruptive conduct” as a violation to better capture behaviors that are disruptive to the orderly operation of facilities.
 17. Modifies the elements of “unauthorized forms of communication” to better identify problematic conduct.
 18. Modifies the elements of “possession, manufacture, or use of weapons” to include the use of an otherwise allowable property item as a weapon as a violation.
 19. Creates the offense of “possession of tobacco” to reflect the ban on smoking and use of tobacco products.
 20. Creates the offense of “possession of electronic communication or data storage devices” to address the added threat to security that the possession of this type of property poses.
 21. Expands the elements of the offense of “unauthorized use of the mail” to include sending any item not allowed under this chapter and falsifying the name of the receiver or address.
 22. Expands the coverage of the misuse of medications to include both prescription and nonprescription medications.
 23. Requires consideration of an inmate’s serious mental illness during due process hearings and disposition stage.
 24. Clarifies how to impose a requirement for restitution when the actual amount is not known at the time of disposition.
 25. Deletes the use of program segregation and adjustment segregation as penalties. The loss of good time associated with these penalties has not had a sufficient deterrent effect to warrant the extra work to recalculate release dates and the deletion eliminates a liberty interest and simplifies due process requirements.
 26. Modifies the processes and terminology for disciplinary transactions from summary through full due process. Permits summary disposition for major violations. Modifies minor hearing process to be more similar to summary disposition. Limits inmate statements to 500 words on 2 sheets of paper. More clearly describes what an inmate may appeal.
 27. Corrects references to DOC 303 in other DOC chapters.

WHETHER PUBLIC HEARING IS REQUIRED:

Public hearing is required under s. 227.16(1), Wis. Stats., and will be scheduled at a later date.

ORGANIZATIONAL UNIT THAT IS PRIMARILY RESPONSIBLE FOR PROMULGATION OF THE RULE:

Department of Corrections, Division of Adult Institutions

DATE SUBMITTED TO THE WISCONSIN LEGISLATIVE COUNCIL:

March 29, 2011

CONTACT PERSON:

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APPROVAL BY SECRETARY OF THE DEPARTMENT OF CORRECTIONS:

March 29, 2011

Gary H. Hamblin, Secretary