

 <p style="text-align: center;"><b>DIVISION OF ADULT INSTITUTIONS</b></p> <p style="text-align: center;"><b>POLICY AND PROCEDURES</b></p>	<b>DAI Policy #:</b> 302.00.18	<b>Page</b> 1 of 6
	<b>Original Effective Date:</b> 04/23/12	<b>New Effective Date:</b> 03/13/23
	<b>Supersedes:</b> 302.00.18	<b>Dated:</b> 11/20/22
	<b>Administrator's Approval:</b> Sarah Cooper, Administration – 2/23/23	
<b>Required Posting or Restricted:</b>		
<input checked="" type="checkbox"/> <b>PIOC</b> <input checked="" type="checkbox"/> <b>All Staff</b> <input type="checkbox"/> <b>Restricted</b>		
<b>Chapter:</b> 302 Inmate Classification, Sentence and Release Provisions		
<b>Subject:</b> Positive Adjustment Time – Petition of Sentence Adjustment to Court		

## POLICY

The Division of Adult Institutions shall ensure that PIOC serving a sentence imposed under Wisconsin Statutes s. 973.01 who have earned positive adjustment time may petition the court for modifications of bifurcated sentence.

## REFERENCES

2009 WI Act 28 – Relating to state finances and appropriations, constituting the executive budget act of the 2009 legislature

2011 WI Act 38 – An act to repeal and amend portions of 2009 WI Act 28 and certain WI statutes; an act to create new statutes related to corrections and sentencing

Wisconsin Statutes s. 16.964(12)(a), 2009 stats – Violent Offender definition

Wisconsin Statutes s. 301.46(2m), 2009 stats – Bulletins to Law Enforcement Agencies

Wisconsin Statutes s. 302.113(2)(b), 2009 stats – Release to Extended Supervision for felony offenders not serving life sentences

Wisconsin Statutes s. 304.06(1)(bg), 2009 stats – Release to parole or extended supervision from state prisons and house of correction

Wisconsin Statutes s. 973.01 – Bifurcated sentence of imprisonment and extended supervision

Wisconsin Statutes s. 973.195 – Sentence Adjustment, 75 and 85%

Wisconsin Statutes s. 973.198 – Sentence Adjustment; Positive Adjustment Time

Wisconsin Administrative Code s. DOC 302.36 – Positive Adjustment Time

Wisconsin Administrative Code s. DOC 303 – Discipline

Wisconsin Supreme Court – State ex rel. Aman Singh v. Paul Kemper, 2016 WI 67

Wisconsin Court of Appeals – State ex rel. Aman Singh v. Paul Kemper, 2014 WI App 43, 353 Wis. 2d 520, 846 N.W.2d 820

Records Office Procedure B-05 – Amended – Modified Sentence

## DEFINITIONS, ACRONYMS AND FORMS

Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) – Validated risk, needs and case management system.

CR-281 – Petition for Positive Adjustment Time §973.198

CR-282 – Verification of Eligibility for Positive Adjustment Time §973.198

CR-283 – Order Concerning Positive Adjustment Time §973.198

DAI – Division of Adult Institutions

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DOC – Department of Corrections

DOC-173 – Inmate Conduct Record

DOC-184 – Disbursement Request

DOC-2522 – Determination of Eligibility for Positive Adjustment Time Under Section 302.113(2)(b) 6., 2009 WI STATS

DOC-2638 – Positive Adjustment Time Computation (s. 973.198)

Full Verification – If completing #1 through #6 on the CR-282 indicates that the PIOC may be eligible for positive adjustment time, the form shall be submitted to the court after completing #7 through #12.

JOC – Judgment of Conviction

PAT – Positive Adjustment Time

PIOC – Persons in Our Care

Preliminary Verification – If completing #1 through #6 on the CR-282 indicates the PIOC may not be eligible for positive adjustment time, the form shall be submitted to the court without completing #7 through #12, unless otherwise ordered by the court.

SORP – Sex Offender Registry Program

Violent Offender – Wisconsin Statutes s. 16.964 (12) (a) In this subsection “violent offender” means a person to whom one of the following applies: (1) The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm. (2) The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.

## **PROCEDURE**

### **I. Wisconsin Statutes s. 973.198 Requirements**

- A. Eligible PIOC may file a petition to the sentencing court under this section 90-days prior to the completion of the confinement portion less PAT earned.
- B. Eligibility for PAT is determined on when a crime was committed or an offender was convicted or sentenced as follows:
  1. A PIOC serving a sentence imposed prior to October 1, 2009, for a crime committed after December 30, 1999, who has earned PAT under s.

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302.113, 2009 stats., or under s. 304.06, 2009 stats., may earn PAT, based on the number of days of PAT earned between October 1, 2009 and August 3, 2011.

2. A PIOC serving a sentence for a crime committed, conviction entered, or sentence imposed between October 1, 2009 and August 3, 2011, who has earned PAT under s. 302.113, 2009 stats., or under s. 304.06, 2009 stats. may earn PAT, abased on the number of days of PAT earned between October 1, 2009 and discharge from the sentence.
  3. PIOC's who meet the criteria under B.1 or B.2 of this section and sentenced under 973.01 may be eligible to earn PAT at the following rates:
    - a. For a misdemeanor or non-violent felony F-I, determined to not be at a high risk to re-offend, is eligible to earn one (1) day for every two (2) days served who does not violate any regulation of the prison, or who does not refuse or neglect to perform assigned duties.
    - b. For a Class F-I felony or a misdemeanor that is not a violent offense, as defined in s.301.048(2)(bm)(1) and who is ineligible for PAT under s. 302.113(2)(b) or for a Class F-I felony that is a violent offense under s. 301.048(2)(bm)1, determined to be at high risk to re-offend, is eligible to earn one (1) day for every three (3) days served, who does not violate any regulation of the prison, or who does not refuse or neglect to perform assigned duties.
    - c. For a Class C-E felony, is eligible to earn one (1) day for every 5.7 days that they do not violate any regulation of the prison, or do not refuse or neglect to perform assigned duties.
- C. When a PIOC is subject to more than one sentence, the sentences shall be treated individually for purpose of sentence adjustment.
- D. A PIOC who submits a petition under Wisconsin Statutes s. 973.198 may not apply for adjustment of the same sentence under Wisconsin Statutes s. 973.195 for a period of one year from the date of the petition.

## II. General Information

- A. Petition for PAT shall be submitted on CR-281 and is available in the Library.
- B. PIOC shall complete and submit a CR-281 for each count or each case if there is more than one that is being petitioned.
- C. Submitting the petition:
  1. The completed CR-281 is forwarded to the Records Office along with a sufficiently stamped envelope addressed to the Court.
  2. A DOC-184 shall be submitted for any additional postage costs.
  3. PIOC may attach supporting documentation to the petition such as prison programs, education, treatment certificates or other justification documentation but none of this will be returned to the PIOC. Copies of

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- supporting documentation shall be made prior to being submitted to the Records Office as part of the final packet.
4. Records Office shall complete a CR-282 or a letter indicating reason for non-submission.
- D. For Milwaukee County Cases only, the petitions shall be addressed to:  
Milwaukee County Clerk of Circuit Court (Criminal Division)  
821 West State Street, Room 117  
Milwaukee, WI 53233
- E. Records Office shall determine when the CR-282 shall be preliminary or full and complete a DOC-2638.
- F. When full CR-282 is appropriate, Records Office shall forward PIOC's name via email to the Social Worker and request the completion of the following within 10 days:
1. COMPAS Reentry Risk Assessment. When the most recent COMPAS assessment is less than two years old, a COMPAS Reentry Risk Assessment is not required and the most current assessment is utilized.
  2. DOC-2522.
- G. Records Office shall email the PIOC's name and DOC # to SORP (DOC BOPADMIN mailbox) for review. The review shall be completed within three working days. Response shall separately indicate yes or no to address each of the following:
1. PIOC have/have not been convicted or found guilty by reason of mental disease or defect of a sex offense or found to have committed a sex offense in another jurisdiction or been committed under Chapter 975.
  2. PIOC are/are not the subject of a bulletin issued under 301.46(2m), stat. (Special Bulletin Notice).
- H. Records Office shall mail all documents to the sentencing court in the envelope provided by the PIOC, to include:
1. CR-281 (with any supporting documents submitted by PIOC).
  2. CR-282 (notarized) or letter indicating reason for non-submission.
  3. DOC-173 (notarized), when a CR-282 is submitted. A notarized DOC-173 for conduct during this incarceration period is required by the Court. A blank DOC-173 shall be submitted even when there is no conduct history.
  4. Copies of JOC(s) when a CR-282 is submitted.
  5. COMPAS Risk Assessment Supervision Recommendation page, when full verification.
- I. Upon receipt of the CR-283 from the Court:
1. When requested, Records Office shall forward completed full verification CR-282 to Court.
  2. When the petition has been granted, refer to Records Office Procedure B-05.

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3. When the petition has been denied, file the CR-283 on the left side of the Legal file with the JOCs in reverse chronological order.

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Name		
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<b>Will Implement</b> <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
<b>Warden’s/Center Superintendent’s Approval:</b>		

**REFERENCES**

**DEFINITIONS, ACRONYMS AND FORMS**

**FACILITY PROCEDURE**

- I.
  - A.
  - B.
    - 1.
    - 2.
      - a.
      - b.
      - c.
    - 3.
  - C.

II.

III.

**RESPONSIBILITY**

I. Staff

II. PIOC

III. Other