



# WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Kevin A. Carr

## GUIDANCE DOCUMENT CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections §227.10 and §227.11 of the Wisconsin Statutes.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

Wendy Montils

Name of Individual Certifying this Document/Proposed Document

Office of Management + Budget Director

Title


Wendy Montils

Signature

6/25/19

Date Signed

Department of Corrections – Wisconsin  
Office of the Secretary  
Wis. Stat. § 227.112(6)  
DOC-2910 (6/2019)

 <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> 302.00.11	<b>Page</b> 1 of 11
	<b>Original Effective Date:</b> 10/01/09	<b>New Effective Date:</b> 07/01/18
	<b>Supersedes:</b> 302.00.11	<b>Dated:</b> 04/20/18
	<b>Administrator's Approval:</b> Jim Schwochert, Administrator	
<b>Required Posting or Restricted:</b>		
<input checked="" type="checkbox"/> <b>Inmate</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> Risk Reduction Sentence		

**POLICY**

The Wisconsin Department of Corrections shall process risk reduction sentences imposed under s. 973.031, 2009 stats. in accordance with 2009 WI Act 28 and 2011 WI Act 38, for inmates sentenced to a risk reduction sentence between October 1, 2009 and August 2, 2011.

**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 Administrative Code s. DOC 302.40 – Risk Reduction Sentence

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

Wisconsin Statutes s. 973.031 2009 stats Repealed by Act 28 Risk Reduction Sentence

Wisconsin Statutes s. 302.042 2009 stats Repealed by Act 28 Risk Reduction Program

Wisconsin Statutes s. 302.043 – Release of Inmates Serving Risk Reduction Sentences.

Wisconsin Statutes s. 302.045 – Challenge Incarceration Program

Wisconsin Statutes s. 302.05 – Wisconsin Earned Release Program

Wisconsin Administrative Code s. DOC 303.71(2) – Major offenses

DAI Policy 300.00.25 – Primary Program Status

ROP B-05 – Amended – Modified Sentence

**DEFINITIONS, ACRONYMS, AND FORMS**

ASR – Act 28 Sentence Reform Database

BOCM – Bureau of Offender Classification and Movement

CIP – Challenge Incarceration Program

COMPAS - Correctional Offender Management Profiling for Alternative Sanctions

DAI – Division of Adult Institutions

DCC – Division of Community Corrections

DOC – Department of Corrections

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DOC-7E – Pre-Release Investigation

DOC-173 – Inmate Conduct Record

DOC-745 – Release Plan Information

DOC-1163A - Authorization for Use and Disclosure of Protected Health Information (PHI)

DOC-1163L – Authorization for Disclosure of Department Of Corrections Action

DOC-2575 – Risk Reduction Sentence - Inmate Notification of CIP/ERP Impact on RRS

DOC-2576 – Risk Reduction Sentence – Release Eligibility Date Referral and Action

ERP – Earned Release Program

ES – Extended Supervision

IC – Initial Classification

ICCR200 – Initial Classification Decision Report

ICCR204 – Inmate Classification Decision Report

JOC – Judgment of Conviction

OCS – Offender Classification Specialist

OOS – Office of the Secretary

OVSP – Office of Victim Services and Programs

RED – Release Eligibility Date (calculated at 75%)

RC – Reclassification

RRS – Risk Reduction Sentence

RRSP – Risk Reduction Sentence Plan

SUD – Substance Use Disorder

Virtual Folder – Shared Storage medium

WICS – Wisconsin Integrated Corrections System

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## PROCEDURE

### I. Sentencing Court

- A. Whenever a court imposes a sentence for a felony under Wisconsin Statutes s. 973.01, the court may order the person it sentences to serve a RRS if all of the following are true:
1. The court determines the RRS is appropriate.
  2. The person being sentenced agrees to cooperate in an assessment of his or her criminogenic factors and his or her risk of reoffending.
  3. The person being sentenced agrees to participate in programming or treatment the DOC deems appropriate.
- B. Excluded offenses:
1. Wisconsin Statutes s. 940.03 – Felony murder.
  2. Wisconsin Statutes s. 940.06 – 2<sup>nd</sup> Degree reckless homicide.
  3. Wisconsin Statutes s. 940.11 (1) – Mutilating or hiding a corpse.
  4. Wisconsin Statutes s. 940.235 – Strangulation and suffocation.
  5. Wisconsin Statutes s. 940.302 – Human trafficking.
  6. Wisconsin Statutes s. 940.31 (1) – Kidnapping.
  7. Wisconsin Statutes s. 940.32 (3) – Stalking.
  8. Wisconsin Statutes s. 941.21 – Disarming a peace officer.
  9. Wisconsin Statutes s. 946.465 – Tampering with a global positioning system tracking device.
  10. Wisconsin Statutes s. 948.03 (2)(a) – Intentional causation of bodily harm to a child.
  11. Wisconsin Statutes s. 948.40 (4)(a) – Contributing to the delinquency of a child.
  12. Wisconsin Statutes s. 939.22 (20d) – Offense against an elderly or vulnerable person.
  13. Wisconsin Statutes s. 939.22 (20m) – Offense related to ethical government.
  14. Wisconsin Statutes s. 939.22 (20s) – Offense related to school safety.
- C. Upon receipt of notice from DOC the inmate has successfully completed the requirements of his or her RRS, the court shall release the inmate to ES.

### II. Facility Records Office

- A. As soon as practical without delay after receipt of JOC, review JOC to determine if the court imposed a RRS to ensure the conviction is not for an excluded offense. When a court imposes a RRS for an excluded offense, the Records Office staff shall send a letter to the court requesting clarification, with a copy to BOCM.
- B. As soon as practical without delay after receipt of JOC, complete calculation of RRS RED.
- C. Update the ASR as required by DOC and DAI policy.

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- D. Notify BOCM of RRS and RED.
- E. Monitor sentence structure to recalculate subsequent RED on consecutive RRS and/or new sentences. Notify BOCM office via email of new RED calculation.
- F. Upon receiving a court order releasing the inmate, the DOC shall release the inmate within six working days, as defined in s. 227.01 (14) and as computed in s. 990.001 (4). Refer to Records Office Procedure B-05.
- G. Update the ASR.
- H. Upon notice of a change in an inmate's status; e.g., conduct report, notify the chair of the RRS Review Team, of the inmate's status change within five working days.
- I. Upon receiving a court order rescinding the release of the inmate, cease release process.
- J. If an inmate serving a RRS imposed sentence releases and subsequently returns to prison while still serving that sentence, the following applies based upon the status the inmate was released on:
  - 1. If a RRS release:
    - a. Not suitable for further RRS consideration on this sentence.
    - b. No RED is established.
  - 2. If released on another early release track other than RRS:
    - a. May be eligible for RRS release.
    - b. A new RED is to be calculated to determine eligibility.
  - 3. If released on ES, not suitable for RRS as the inmate has already served their original full confinement time and has now returned to serve a re-confinement of their ES time.

### **III. BOCM**

- A. Review ASR application to determine whether an inmate has a RRS and a RED.
- B. Review applicable JOC's to determine whether the RRS is concurrent or consecutive.
- C. Complete a validated Risk Assessment.
  - 1. Intake sites: Complete a validated Risk Assessment for all RRS sentence admissions.
  - 2. Post intake sites: contact assigned Social Worker for completion of the a validated Risk Assessment if:
    - a. There is a receipt of a new RRS sentence; or

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- b. The RRSP is determined to be met thus far, and is being considered for referral to the RRS Review Team (a Risk Assessment for reentry purposes).
  
- D. Assess needs, ensure assessment of needs by designated experts, identify program and treatment needs that address criminogenic factors and document case plan. All RRSP shall include the following standard and individualized requisites, determination statement and notification to the inmate regarding the potential for modification of the original plan:
  1. Standard:
    - a. Attain custody classification assignment to minimum or community pursuant to Wisconsin Administrative Code Ch. DOC 302 prior to release pursuant to Wisconsin Statutes s. 302.042 (4).
    - b. Maintain good conduct record during term of confinement.
    - c. No violation of any rules under Wisconsin Administrative Code s. DOC 303.71(2) in the six months prior to release.
    - d. For a RRS inmate releasing to the community complete reentry release plan in coordination with DCC agent, which includes a completed DOC-7E.
  2. Individualized:
    - a. Determined, specific DAI primary programs related to the criminogenic factors.
    - b. Determined, specific non-primary programs or treatment related to the criminogenic factors.
  3. Determination:
    - a. DAI programs or treatment shall address criminogenic factors of the inmate to reduce risk of reoffending, to be included within the RRSP, or,
    - b. There are no formal DAI primary programs to address the identified criminogenic factor(s). The inmate may seek individual counseling or other approved resources to address this area or
    - c. Time to ES is insufficient to complete a case plan that shall address criminogenic factors to adequately reduce risk of reoffending.
  4. Notification Statement
 

The classification document shall include a statement that the plan may be modified at subsequent classification hearings based on new information, behavior displayed or other factors relative to the case.
  
- E. Inmates meeting the following conditions shall have a RRSP developed with additional precautions. Clearly label as a "Non-Conditional RRSP" or "Conditional RRSP".
  1. Conditions: (Note: Includes current and past convictions, read-ins or juvenile adjudications).
    - a. Registered sex offenders.
    - b. Sexual assault.
    - c. Crimes that included a sexual dynamic.
    - d. Crimes involving serious injury or death.

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- e. Crimes involving a weapon other than possession or simple display of the weapon.
  - f. Dynamics involving arson or serious damage to property.
  - g. Convictions in which mental functioning or health may have been a factor in the crime; or a program/treatment issue for a RRSP.
  - h. No DAI treatment or program that shall satisfactorily reduce risk to reoffend relative to identified criminogenic factors.
  - i. Any inmate serving a RRS sentence who is released under another Act 28 track and returned as a violator.
2. Initial Classification:
    - a. The OCS shall work with the assigned DCC agent to develop the Conditional RRSP.
    - b. Consultation with other professionals may occur as pertinent for inclusion in the Conditional RRSP.
    - c. Conditional RRS staffing shall include the names/titles of the agent and consultants within the Inmate Classification Report.
  3. Reclassification:
    - a. During the Reclassification pre-hearing preparation, should it appear that a Conditional RRSP is in need of modification, the site OCS shall contact the assigned DCC agent and their BOCM supervisor for input.
    - b. This shall be documented within the Inmate Classification Report, with the names/titles of the agent and consultants.
- F. Inmates sentenced to a RRS and determined to be eligible for CIP and/or ERP shall have the CIP/ERP track selected unless the inmate objects. If the inmate chooses CIP and/or ERP:
1. Complete and distribute the DOC-2575.
  2. No RRSP shall be written.
  3. Release via successful completion of CIP or ERP shall be pursuant to Wisconsin Statutes s. 302.045 or 302.05.
  4. Upon completion of CIP or ERP, the unserved portion of an inmate's confinement time shall be added to the inmate's period of Extended Supervision. The overall sentence remains the same.
  5. If an inmate does not complete CIP or ERP, a Reclassification hearing shall occur and a RRSP developed.
- G. Determine custody and site pursuant to Wisconsin Administrative Code Ch. DOC 302, RRS program needs and RED.
- H. The following classification staffing/hearing recommendations require a decision by a BOCM Supervisor:
1. An initial RRSP
  2. A modified RRSP
  3. Completed RRSP being considered for referral to the RRS Review Team
- I. Ensure transfer priority to facilitate RRSP timelines as necessary.

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- J. Establish classification recall dates to address transfers or status reviews relative to the RRSP and RED.
- K. If a Reclassification Committee determines the case plan has thus far been met:
1. Review the risk assessment completed by the social worker for reentry purposes.
  2. Complete the DOC-1163L
  3. Complete one DOC-1163A that includes each employee that will review the RRSP including but not limited to:
    - a. OCS
    - b. Reclassification Committee
    - c. BOCM Sector Chief
    - d. RRS Review Team.
  4. At the Reclassification hearing, the following documents shall be reviewed to provide the committee with sufficient information about the inmate's progress on the RRSP:
    - a. Completed DOC-1163L.
    - b. Completed DOC-1163A.
    - c. Program discharge summaries.
    - d. DOC-173.
    - e. DOC-7E (if release to ES).
    - f. DOC-745 (if release to ES).
    - g. Risk Assessment (completed for reentry purposes).
  5. BOCM site staff shall:
    - a. Document in the Inmate Classification Report the classification committee's analysis of the inmate's progress on the RRSP and state an opinion as to whether the plan's factors have thus far been met.
    - b. Place the following documents in the virtual folder:
      - i. Completed DOC-1163L.
      - ii. Completed DOC-1163A
      - iii. Program discharge summaries.
        1. A copy of the SUD discharge summary will be distributed by the social worker via e-mail to the OCS and BOCM Sector Chief.
        2. If the RRSP is referred to the RRS Review Team for review the BOCM Sector Chief shall forward the SUD discharge summary the RRS Review Team Chair via e-mail.
      - iv. DOC-173.
      - v. DOC-7E (if release to ES).
      - vi. DOC-745 (if release to ES).
      - vii. JOC (on respective RRS).
      - viii. Risk Assessment (completed for reentry purposes).
    - c. Notify the BOCM supervisor of the need to complete the decision on the classification hearing action.
  6. BOCM supervisor shall complete the classification decision, including an analysis of the inmate's progress on the RRSP and state an opinion as to whether the plans factors have thus far been met.



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- a. If met:
    - i. Complete the DOC-2576.
    - ii. Notify the RRS Review Team chair via email box- and the referring site's Record's Office via the designated facility Records Office email i.e. DOCWCCSRecordsStaff@wisconsin.gov, the RRSP is ready for review.
    - iii. The RRS completion shall not be referred to the RRS Review Team prior to meeting the RED.
  - b. If not met:
    - i. Document in the classification decision what the inmate needs to accomplish in order to complete the RRSP or if time to ES is insufficient to complete.
    - ii. Notify the referring site of the decision.
- L. If a Reclassification Committee determines the inmate has not successfully completed the RRSP, but may complete prior to their ES, establish a Reclassification recall date to coincide with the anticipated RRSP completion provided the recall date occurs before the inmate reaches the ES date on that sentence.
- M. If a Reclassification Committee determines the inmate has ~~thus far~~ not successfully completed the RRSP, and the plan shall not be completed prior to the ES date on that sentence, do not schedule an early recall.
- N. As applicable, receive DOC-2576 from the RRS Review Team ordering modification of the RRSP and take appropriate action.

#### **IV. Facility Social Workers**

- A. Review the RRSP and notify the site program provider(s) of the inmate's RRSP and program or treatment needs to ensure compliance with the case plan timeline.
- B. Within ten working days of receiving a request from BOCM staff for a Risk Assessment, complete and notify BOCM staff of this action.
- C. Notify the BOCM OCS of any case management developments affecting inmate RRSP completion, such as major conduct reports, new program assignments or time elements, when these events suggest the need for an early recall.
- D. Provide a summary in the WICS Inmate Classification Action (Pre-hearing) regarding the inmate's progress on the RRSP. The summary is to include any suggested modifications.
- E. Request an early Reclassification hearing upon completion of a program assigned within the RRSP, if the inmate is in need of a transfer to another site

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to complete a RRS assignment not available at the current location or if custody reduction appears appropriate.

- F. For a RRS inmate that releases to the community:
    - 1. Request a DOC-7E.
    - 2. Develop a release plan with inmate and agent.
  - G. Reclassification pre-hearing when the Social Worker determines the case plan thus far has been met, the Social Worker shall review the following documents and provide a written opinion within the WICS Inmate Classification Action (Pre-hearing) regarding progress on the RRSP:
    - 1. Program discharge summaries.
    - 2. DOC-173.
    - 3. DOC-7E (if released to ES).
    - 4. DOC-745 (if released to ES).
    - 5. Risk Assessment (completed for reentry purposes).
  - H. Ensure the DOC-745 is completed and placed in the Virtual Folder.
- V. DCC Agent**
- A. On conditional RRS inmates only, work in coordination with the BOCM OCS in the development of, and any subsequent modification to, the RRSP.
  - B. Upon request from the Social Worker, complete DOC-7E within 30 days.
- VI. Facility Program Providers**
- A. Comply with DAI Policy 300.00.25.
  - B. Complete a discharge summary with notification to the OCS and the Social Worker when an inmate serving a RRS is discharged from programming or treatment.
- VII. RSS Review Team**
- A. The Secretary shall appoint members to comprise a RRS Review Team, minimally comprised of supervisory level representatives from DAI, DCC and OVSP.
  - B. At any point during the RRS Review Team process, receive additional information from DOC staff that may impact the RRS review and decision-making process.
  - C. Within 30 working days of receipt of email notification and the DOC-2576, a review shall be conducted to determine whether the inmate has completed the RRSP. Retrieve corresponding materials from the Virtual Folder.
  - D. Factors considered by the RRS Review Team shall include, but are not limited to:

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1. Facility adjustment.
  2. RRSP.
  3. Treatment and program participation.
  4. Appropriateness of release plan.
  5. Risk to the community.
- E. If the RRS Review Team determines the inmate has not met all criteria, they shall complete and distribute the DOC-2576 and return the case to BOCM for plan modification.
- F. If the RRS Review Team determines the inmate has met all criteria, they shall:
1. Complete and distribute the DOC-2576 and mail the following packet to the sentencing court:
    - a. DOC-2576.nd,
    - b. ICCR204.
    - c. DOC-7E.
  2. Update the ASR database under Decision Date.
- G. If following the notification to the court, but prior to receiving the amended court order, it is determined that the inmate has not met all criteria, the RRS Review Team shall issue an amended DOC-2576 rescinding the court notification, and distribute, and return the case to BOCM for plan modification.
- H. The OVSP representative shall ensure timely notification to victims in accordance to their policies.

### **VIII. Inmate Responsibilities**

- A. Comply with rules and regulations of the facility.
- B. Successfully complete the RRSP.
- C. Actively engage in release planning.

**Administrator's Approval:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
 Jim Schwochert, Administrator

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Name		
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<b>Subject:</b> Risk Reduction Sentence		
<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.
    - 1.
      - a.
  - B.
  - C.
  
- II.
  - A.
  - B.
  - C.