

## **DISCHARGE\DCC\CASE CLOSING**

### **Procedures Prior To Discharge**

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## **PROCEDURES PRIOR TO DISCHARGE**

### **.01 GENERAL STATEMENT**

It is the agent's responsibility to ensure that all court-ordered conditions and statutory provisions have been completed or addressed prior to an offender's discharge from supervision.

### **.02 PROCEDURE**

At least 90 days prior to an offender's discharge date, the agent shall determine if DNA requirements have been met:

- For those offenders whose DNA status was not previously verified as "Conviction Sample on File" on the CCH (Computerized Criminal History) and the WICS DNA Collection and Tracking screen does not have a date in the "DNA Verified Date" field, the agent must notify the offender of the DNA requirement and develop a plan and timeline to ensure compliance and sample submission prior to discharge. This plan may include but is not limited to re-referral to local law enforcement, agent scheduling the appointment with local law enforcement, or, if approved by the regional/assistant regional chief, placing the offender in custody and requesting law enforcement collection of the DNA sample. Agents should place appropriate notes in COMPAS regarding the referral.

At least 30 days in advance of an offender's discharge, the agent shall complete all of the following:

- Update the offender photos and upload to PICS;
- Ensure all court obligations are paid or an extension or civil judgment has been signed by the court;
- Ensure that all court ordered conditions have been met or removed;

- Update the offender photo;
- Verify if there are any consecutive cases; and
- Request a CCH to verify that DNA status is "Conviction Sample on File". If a DNA sample has not been submitted, as noted on the CCH, then the offender should be placed into custody on a hold and collection of a DNA sample requested through law enforcement.
  - If the CCH indicates any status other than "Conviction Sample on File", the agent must follow up with the offender and the SAFE Team, if necessary, to resolve the DNA submission issue prior to the offender discharging.
  - Confirm that there is a date in the "DNA Verified Date" field on the WICS "DNA Collection and Tracking" screen. If there is a discrepancy between the CCH and WICS DNA screens, agents should contact their regional DNA subject matter expert for assistance in resolving the conflict.
  - Offenders must not be allowed to discharge without providing a DNA sample, if required.
  - For all offenders, failure to comply with DNA requirements is a violation and an apprehension request and subsequent stop time may be issued for those offenders. Offenders who have been deported or are being held by ICE are still required to maintain compliance with DNA requirements. The agent and supervisor should staff the case prior to the discharge date to discuss appropriate action.

In addition, for sex offenders:

- Explain Sex Offender Registry requirements and complete [DOC-1759](#) for registrants;
- Explain Lifetime GPS procedures, if applicable and
- Victim Notification

## **CASE CLOSING**

### **.01 GENERAL STATEMENT**

Case closing information is beneficial to staff who may assume future responsibility for an offender after all cases have been closed.

### **.02 NOTIFICATION**

A computer generated "Notice of Case Status Change" will be forwarded to the agent, giving formal notification of discharge. A Termination number will be assigned to the case. A copy

of the Notice of Case Status Change should be forwarded to misdemeanor offenders upon discharge, as certificates are not issued for misdemeanants.

### **.03 AGENT'S RESPONSIBILITY**

1. Agents will receive a Discharge Checklist ([DOC-2877](#)) from the Office Operations Associate (OOA). The agent will verify discharge eligibility and complete section two of the Discharge Checklist 30 to 60 days prior to discharge. Upon discharge, the agent shall complete section three of the Discharge Checklist ([DOC-2877](#)) and forward the file and checklist to the OOA according to office policy.

2. Case closing summary – Enter pertinent information the agent may believe is necessary as a note. Enter the following information into appropriate screens in COMPAS:

- Last known employment or school program in the COMPAS Work & Education section
- Current primary residence address and phone number

3. Case Plan - Enter end dates and completion codes then closeout the case plan and remove from COMPAS caseload.

4. Case File - Once the file is complete, the file is forwarded to an OOA for closeout while awaiting a T- number.

5. Discharge Certificate - Upon receipt of the discharge certificate, the agent will forward a copy to the offender and retain a copy in the file. Misdemeanant offenders should receive a copy of the Notice of Case Status Change indicating discharge.

6. Electronic Documents Stored on the H: or G: Drive - Within thirty days of discharge, the offender specific documents that are being stored on either one of these drives must be printed and placed in the offender file. The electronic files must then be deleted from either the H: drive (home folder) or G: drive (group folders). Note: This does not apply to COMPAS or other software systems.

#### **.04 OFFICE OPERATION'S ASSOCIATE (OOA) RESPONSIBILITY**

1. 90 days prior to discharge, the OOA will initiate the Discharge Checklist ([DOC-2877](#))  
Upon completion of Section One of the form, the OOA will forward the Discharge Checklist to the agent of record.
2. Upon completion of Section Two and Three, the agent will submit the file and Discharge Checklist to the OOA. The OOA will scan the completed Discharge Checklist to the Status Keeper.
3. In COMPAS, the last known, current residence address will remain checked as primary. Do not enter an end date and do not remove the primary check mark.
4. OOA will follow the DCC Supervision – Records Management – Case File Setup and Organization section of ECRM to organize offender file, indicate T# on file, remove/discard supervision fee booklet, and file the T file in appropriate T file area.

#### **.05 STATUS KEEPER'S (SK) RESPONSIBILITY**

1. When an offender discharges from supervision, the OOA will enter the date of termination in COMPAS and choose the appropriate termination code from the following:
  - PSI Only: The defendant was not sentenced to a term of DOC incarceration or placed on supervision.
  - IC Rejected: Incoming interstate compact request rejected by Wisconsin
  - DCC Discharge: All terms of supervision and or incarceration are complete
  - Revoked- All Cases/Lifecycle closed-Sentenced to County Jail or House of Correction; Time Served or Fine
  - Deceased
2. The SK will then close the case in COMPAS.

### **UNPAID OBLIGATIONS**

#### **.01 AUTHORITY**

[Wisconsin Statutes Section 973.09\(3\)\(b\)](#)

**.02 NOTICE OF STATUS OF OBLIGATIONS**

The Program Support Supervisor or designee shall run the report of offender's discharging with unpaid obligations which is located in Business Objects at a minimum of once a month. The report will be forwarded to the agent and the agent's supervisor. The agent will take appropriate action to collect the balance of the unpaid obligations, including a court review or other appropriate actions based on an evidence-based response to violations.

**.03 HUGGETT DECISION**

Failure to make restitution in the original probation period may constitute cause for extending probation and continuing collection of restitution only if there is a basis for believing that additional restitution would achieve the objectives of probation and that the offender could make more than negligible payments during the extended period.

The court must determine that the offender has or did have the ability to comply and has not made a good faith effort. The burden of demonstrating a good faith effort toward the payment of court ordered financial obligations is on the offender.

An offender demonstrates good faith effort as follows:

- An offender shall obtain a social security card and, if unemployed, shall register with Wisconsin Job Service.
- An offender shall provide his/her agent with documentation as to his/her financial situation including but not limited to income, savings accounts, rent, utility bills, medical bills, and loan payments via Budget Worksheet ([DOC-8B](#)).
- An offender needing job skills training must cooperate with referrals to agencies to enhance job readiness.
- An offender with reasonable job skills shall provide a verifiable job search list with the name of employer, contact person, type of job applied for, address and telephone number. An offender shall apply for a minimum of five job openings each week.
- An offender must be willing to do community service work for court costs, attorney fees, and surcharges if approved by the Court.
- Regardless of employment status, some payment shall be made every month toward court ordered financial obligations.
- As a guideline, a minimum of 7% of net income is to be paid toward court ordered financial obligations.

- An offender shall cooperate with a wage assignment if he/she fails to make consistent monthly payments.

#### **.04 EXTENSION OF PROBATION OR ISSUANCE OF A CIVIL JUDGMENT- PROBATION, PAROLE, OR EXTENDED SUPERVISION**

Upon receipt of the 90-day notice of unpaid obligations (DSPY) from the Cashier's Unit the agent will attempt to collect the balance of the unpaid obligations. The agent will continue to review cases as to whether extension is appropriate under Huggett Decision described above. Where extension is not appropriate or viable, the agent will so advise the court via the memo format described below so the issuance of a judgment may occur. The agent will provide a current status of the account to document the amount of unpaid restitution for the court. The agent will discuss the delinquent obligations with the offender in order to determine the reasons for the delinquency. The agent will advise the offender of the right to appear in court in order to contest the extension of the probation term or the issuance of a civil judgment. The offender may waive the right of appearance by signing the Petition and Stipulation to Waive Appearance and Hearing ([CR-208A](#)). The agent shall prepare a memorandum for the court supporting the reasons for the recommended action.

In the event the case to be extended derives from another county, the supervising agent, at least 60 days prior to discharge, will prepare a memorandum to the court, to include the following:

- Court History
- Status of Obligations and Payment
- Relevant Financial Information
- Reason for Nonpayment
- Agent's Recommendation

The memorandum, and [CR-208A](#), if signed by the offender, will be forwarded to the DCC Office in the county of sentencing (Intake Unit in Milwaukee). This office will present the matter to the Court and then forward the Court's decision to the supervising agent, who will send the original to the Central Records Unit.

If an extension is granted by the court for the purpose of court obligations, the offender will discharge upon payment of all court obligations owing for that case. Payment may not be

refused. Active supervision will cease upon payment in full of court obligations owed on the extended case but it will not be considered discharged until the payment has been processed and funds received by the bank. If the payment is not valid, active supervision will resume.

In the case of parole or extended supervision, the agent shall prepare the Civil Judgment for Restitution/Court Ordered Financial Obligations ([CR-207A](#)), requesting the court issue a civil judgment indicating the amount of the unpaid obligations and information regarding to whom they are due. The [CR-207A](#) can be used only for restitution and other court-ordered obligations excepting surcharges. A review of the WICS Offender Payee screen (COP010) will provide the most current and accurate amounts. Following signature by the court, a copy of the [CR-207A](#) must be provided to the Cashier's Unit to reduce the balance to zero.

#### **.05 REMOVAL OF COURT-ORDERED FINANCIAL OBLIGATIONS**

If the agent determines that the offender has made a good faith effort to comply with the court ordered financial obligations but does not have the ability to comply, the agent may recommend that the balance of the ordered financial obligations be removed as a condition of probation. The agent will prepare a memorandum to the court, which delineates the offender's financial situation precluding payment.

#### **.06 REFUSAL TO PAY COURT OBLIGATIONS**

Refusal to pay court obligations is a violation of the Rules of Community Supervision and the order of the court. If the agent determines that the offender has had the ability to pay and has refused, an evidence-based response to violation shall be pursued.

#### **.07 BANKRUPTCY**

Financial obligations ordered by a criminal court as a condition of supervision are not dischargeable by bankruptcy proceedings. This means that a bankruptcy discharge cannot operate to discharge a restitution debt whether the bankruptcy was filed under Ch.7 or Ch. 13 of the Bankruptcy Code.

However, once the bankruptcy petition is filed, an automatic stay prevents any action to collect debts including court-ordered obligations such as restitution. No adverse action may

be taken against the offender based solely upon non-payment while the bankruptcy is pending. To attempt to take adverse action, such as revocation, would potentially be a contempt of the bankruptcy court and an action subject to sanctions. However, if the offender makes payments on the obligations during the pendency of the bankruptcy those can be collected and remitted as appropriate. In view of the automatic stay it is advisable to wait until the bankruptcy is discharged or dismissed before taking any action to revoke based solely on nonpayment.

The agent should ensure that the offender does not discharge from probation inadvertently while the bankruptcy is pending, and take whatever steps are necessary to extend the probation past the duration of the bankruptcy proceeding.

The agent should file a Proof of Claim for the court ordered obligations with the bankruptcy court, if one is sent. Instructions are provided with the form. The following statement should be put in block 1 of the proof of claim form. "Restitution is an unsecured, non-priority claim. Restitution debts are established by court order on "X" date to be paid as a condition of the debtor's felony/misdemeanor conviction." Attach a copy of the Judgment of Conviction to the Proof of Claim form.

The following statement should also be inserted on the Proof of Claim form. Although for space reasons, it may need to be on the back of the form, it should be referred to on the front: "The Wisconsin Department of Corrections' position is that a restitution debt is not dischargeable under Chapter 7 or Chapter 13. See 11 U.S.C. sec. 523 (a)(7) and Kelly v Robinson, 107 S.Ct. 353 (1986). Also see Pennsylvania Dept. of Public Welfare v Davenport, 495 U.S. 552, 110 S.Ct. 2126 (1990), and changes in the Bankruptcy Code, 11 USC Sec. 1128(a) that took effect in 1990."

Under Item #5, on the Proof of Claim form, "type of debt" mark "unsecured" and refer back to your answer in Item #1.

## **TERMINATION OF SUPERVISION WITH OUTSTANDING FINANCIAL OBLIGATIONS**



## **.01 UNPAID FINANCIAL OBLIGATIONS**

Offenders should not be allowed to reach discharge with outstanding court-ordered financial obligations. If an offender, in error, should pass the discharge date with obligations owing and no extension is signed by the court, the agent must prepare a [CR-207A](#) to have the outstanding balance converted to civil judgment. Upon the court's signature, a copy must be sent to the Cashier's Unit in order to reduce the balance to zero. The Department has no legal authority to continue supervision or to require further payments; however, voluntary payments may be collected. The agent or staff receipting the payment in WICS should indicate that it is a special priority payment (refer to WICS Manual/Priority Payments). It must be noted to which case the funds apply and process the receipt and payment as usual. Cashiers will apply the payment to the designated case.

## **.02 TERMINATION PROCEDURE WITH OBLIGATIONS OWING**

On cases where the crime date is prior to September 1, 1988, cases will not automatically discharge if court ordered obligations are still due. To request termination of supervision with court obligations owing, the agent must submit a completed Request for Administrative Action ([DOC-44A](#)) to the field supervisor indicating reasons why the case should be terminated with obligations owing. Cases may be terminated in this manner only if the discharge date has passed. If approved, the Central Records Unit will close the case. A discharge certificate will not be issued.

## **INMATE/PAROLEE/ES OFFENDER FINANCIAL RESPONSIBILITIES**

### **.01 AUTHORITY**

[Wisconsin Statutes 973.09; 973.20](#)

### **.02 GENERAL STATEMENT**

For crimes committed on or after September 1, 1988, courts will in most cases order restitution and/or other financial obligations in addition to imposed prison terms. The court may specify a deadline for payment of these financial obligations, which would necessitate payment while incarcerated. If no deadline for payment is specified by the court, the financial obligation becomes a condition of parole or extended supervision.

### **.03 PAYMENT BY INMATES**

Inmates may make voluntary payments while incarcerated or can be ordered by the court to make payments while incarcerated. Payments by inmates will be sent by the institution Business Office to the Cashier's Unit.

Persons who are direct- discharged from the institution will not receive parole supervision. Therefore, civil action by the victim will be necessary to obtain restitution.

### **.04 PAYMENT BY PAROLEES AND EXTENDED SUPERVISION OFFENDERS**

Financial obligations which are not paid during incarceration become conditions of parole or extended supervision. Failure to pay financial obligations is a violation of the Rules of Community Supervision. Appropriate responses will be imposed consistent with an evidence-based approach to violations decision-making process. Parole or extended supervision may not be extended to allow for payment.

### **.05 REVOCATION**

For crimes committed on or after September 1, 1988:

- A probationer having an imposed and stayed prison sentence, including financial obligations, would, if revoked, owe those financial obligations as a condition of parole or extended supervision.
- A probationer having an imposed and stayed jail sentence would upon revocation still owe those financial obligations and the court shall be notified by the agent of the amount owed.
- A probationer having a withheld sentence including financial obligations would, on revocation and sentence to prison, owe those financial obligations as a condition of parole or extended supervision unless the court addressed the obligations in sentencing.
- A person on parole or extended supervision owing financial obligations would, if revoked, owe those obligations as a condition of subsequent parole or extended supervision.

## **OFFENDER DEATH**

### **.01 PROCEDURE**

When an offender on supervision dies, the agent will submit a Recommendation for Administrative Action ([DOC-44A](#)) within 7 days of the agent becoming aware of the death. The [DOC-44A](#) will include documentation of the death in a narrative on the form or attached to the form. Verification of the death may include reports from such sources as a hospital, doctor, police, newspaper, coroner, funeral director, etc. Notice of death from a family member or significant other is not sufficient without secondary verification. Central Office staff forward the request for the death certificate to the Wisconsin Bureau of Vital Statistics or other appropriate locations if the death occurred out of state. It can take three months minimum to receive a death certificate on a Wisconsin offender and six months minimum to receive an out of state death certificate. Upon receipt of the death certificate, Central Office staff will forward the certificate to the agent of record and the case will be closed in WICS.

All deaths while on supervision should be entered into the case notes and indicate how the agent learned of the death, the date, and suspected cause. A situation alert is required for all unusual or high profile deaths of DOC offenders. Please refer to the ECRM section on situation alerts for more information.

## **EXPUNGEMENT**

### **.01 AUTHORITY**

[Wisconsin Statute 973.015](#)

[State v. Lickes 2019AP1272-CR](#)

### **.02 GENERAL STATEMENT**

"Expunge" means "to strike or obliterate from the record all references to a defendant's name and identity." If a person is under the age of 25 at the time of the commission of an offense which has a maximum period of imprisonment of 6 years or less, and is found guilty, the sentencing court may order that the record be expunged upon successful completion of probation. The court must determine that the person will benefit and society will not be harmed by disposition. The court must order the expungement at the time of

sentencing for the offender to be eligible and be reflected in the court record. Expungement may be ordered on cases with both probation orders and prison sentences.

### **.03 SUPERVISION**

The court order will specify if the offender is eligible for expungement. All aspects of supervision are consistent with other probationers including disposition of violations and revocations.

### **.04 TERMINATION**

A person has "successfully completed" probation if there is no conviction for a subsequent offense, probation has not been revoked, and all conditions of probation are satisfied. To "satisfy the conditions of probation" a probationer must satisfy court-ordered conditions and have no rule violations.

Within ten days following the discharge date, the agent shall forward information to the court indicating whether or not the eligible offender has successfully completed probation. For clients who have successfully completed probation, the Certificate of Discharge and the Verification of Satisfaction of Probation Conditions for Expungement ([DOC- 2678](#)) are provided to the court. For client who have not met the criteria for expungement, the Failure to Meet Criteria for Expungement ([DOC-2678A](#)) must be completed for the court. If the clients has been granted expungement on a sentence served in prison, the agent shall submit a court memo indicating to the court that the clients has discharged from supervision within ten days of the discharge. The memo must indicate whether or not the expungement criteria defined above has been met. Submission of these documents will initiate the expungement process.

If a client is revoked, the court is notified by the Central Records Unit.

Upon notification of successful completion of supervision, the court will expunge the record. The agent should encourage the offender to follow up with the Clerk of Court in the county of conviction to ensure that the record has been expunged.

## **.05 RELEASING INFORMATION**

This statute, for purposes of records, only applies to court records. Release of information from Division files is handled as with standard probation cases while active. Adjudication under this statute may be included under prior record for future pre-sentence investigations.

## **.06 EXPUNGEMENT OF DEPARTMENT RECORDS**

The court or Department of Justice may order the Department to vacate an action or finding or require specific records or information expunged from an offender record. All court orders to vacate or expunge shall be forwarded to the regional litigation coordinator, regional chief or designee. The regional litigation coordinator shall consult with the Office of Legal Counsel to coordinate the process. This section does not apply to court orders for expungement under [Wisconsin Statutes 973.015](#).

## **EXECUTIVE CLEMENCY**

### **.01 AUTHORITY**

[Wisconsin Statute 304.08](#) and [304.11](#)

### **.02 GENERAL STATEMENT**

The Governor has the power to grant clemency which includes pardons, conditional pardons, commutations, and reprieves. The Governor has total discretion in the granting of any of these forms of clemency.

### **.03 APPLICATION PROCEDURE**

Chapter 304 of the Wisconsin Statutes sets forth rules regarding applications for clemency. All applications for clemency must be made in writing by the person seeking the clemency or by someone on that person's behalf. Information about the clemency application procedure, instructions, and application forms may be obtained by contacting:

Governor's Office  
State Capitol  
Madison, WI 53702

A lawyer is not required, nor does it usually help to have a lawyer at the Pardon Advisory Board hearing. These hearings are very informal, and the board would rather talk directly with the applicant.

#### **.04 DIVISION RESPONSIBILITIES**

The Division of Community Corrections employees should never initiate clemency proceedings, nor should they make personal recommendations concerning the clemency application of an inmate, offender, or resident under the custody or supervision of the Department of Corrections.

Some applicants or their attorneys may ask the agent to provide them a summary of the case. When this occurs, the applicant or the attorney should be informed that a statement will not be prepared unless requested by the Governor's Office. If a statement is requested by the Governor's Office, the agent will not furnish a copy of the statement prepared for the Governor to the applicant or his attorney. If the applicant or attorney requests a copy, the agent should refer them to the Governor's Office. In preparing a summary of the case, the agent should not include a recommendation, unless a specific request has been made. This is forwarded by the agent to the Regional Chief who will transmit it to the Division Administrator for routing to the Governor's Office.

It is permissible for Division employees to write personal letters of recommendation on former inmates, offenders, or residents not currently under the custody or supervision of

the Department of Corrections. Since such letters reflect the personal views of the writer, they should be written on plain stationery and not on Department letterhead.