Authority

In accordance with AS 44.28.030, AS 33.30.021 and 22 AAC 05.155, the Department of Corrections will establish and maintain a manual of policies and procedures to interpret and implement the statutory and regulatory duties of the department.

References

Alaska Statutes
33.30.011 Duties of Commissioner
33.30.091 Designation of Programs
33.30.101 Furloughs
33.30.111 Prerelease Furloughs
33.30.131 Furlough Involving Employment
33.30.141 Effect of Violation of Furlough Conditions or Failure to Return
33.30.901 Definitions

Alaska Administrative Code
22.05.260 Appeals Procedure
22.05.310 Furlough for Prisoners Outside Alaska
22.05.316 Furlough
22.05.321 Prerelease Furlough
22.05.331 Furlough Involving Employment
22.05.335 Violation of Furlough Conditions
22.05.660 Definitions

Applicability

All employees; Community Residential Program providers; and sentenced prisoners.

Definitions

Community Residential Program (CRP); A program approved by the department to supervise offenders who are under the department’s jurisdiction, outside a state correctional center. A program designed specifically to supervise offenders under the jurisdiction of the department, such as a private contract facility or an Intensive Furlough Program, must meet operating standards designed by the department. A program which provides services to clients who are not under the jurisdiction of the department, such as a substance abuse treatment center or hospital, may be approved by the department to supervise furloughers if the program’s supervision standards meet the minimum supervision standards required under this policy.

Policy

A sentenced prisoner will be granted a prerelease furlough during at least the last six months of incarceration unless the prisoner’s potential for reformation is considered so minimal, and the immediate threat to public safety is considered so great that these factors clearly outweigh the benefits to the public and the prisoner of gradual reintegration into society prior to release from custody. Prisoners who are close of maximum custody grade, or who are sex offenders who have not satisfactorily completed a Department of Corrections institutional sex offender treatment program during incarceration are ineligible for prerelease furlough.
consideration. It has been determined that such offenders may pose an immediate threat to public safety which clearly outweighs any potential for reformation to be gained by furlough placement.

A prisoner who has previously been removed from a furlough or other CRP placement for cause during the current incarceration is ineligible for further furlough consideration for a period of at least 90 days following the date of removal. Return to furlough status is subject to the approval of Central Classification, irrespective of who may have approved the initial furlough. A prisoner who is ineligible for a prerelease furlough or, if eligible refuses such placement, is ineligible for any kind of furlough or other community based activities.

Procedures

A. Review of Prisoners Eligible for Consideration of Prerelease Furlough

1. In accordance with Policy 818.03 (Victim Notification), the victim(s) of a prisoner’s crime will be notified of that prisoner’s eligibility for prerelease furlough consideration. The probation officer shall make such notification:
   a. Upon receipt of a written request for furlough consideration from a prisoner eligible under VI.A. 2, or
   b. At least 30 days prior to the time a prisoner meets the eligibility criteria under VA. A.3; and
   c. If current offense is a sex offense, there is written report by staff of a DOC institutional sex offender treatment program attesting to satisfactory completion of such program during service of the sentence imposed for the current offense.

2. Prisoners sentenced to one year or less: The assigned probation officer shall complete the Prerelease Furlough Matrix (20-818.02A) for a prisoner sentenced by the court to a composite term of one year or less or returned to custody by the Parole Board for a period of incarceration of one year or less.
   a. Qualifying Criteria:
   b. Has not been found guilty of a high moderate or major infraction within the past 120 days of incarceration; and has no pending disciplinarians at any level; and
   c. Requests in writing to be considered for a prerelease furlough.
   d. Approving Authority:
   e. The holding facility superintendent is the approving authority for prisoners holding medium and minimum custody grades;
   f. The superintendent shall complete section G or H of the furlough Form and, if the furlough is approved, may modify any sections of the furlough conditions; and
   g. Reduction to community custody becomes effective upon transfer to the CRP. The superintendent shall complete the information required in section H.

3. Prisoners sentenced to more than one year: The probation officer shall complete the Prerelease Furlough Matrix (20-818.02A) for a prisoner sentenced by the court to a composite term of more than one year, or returned to custody by the Parole Board for a period of incarceration of more than one year.
   a. Criteria:
   b. Has served at least one third of the sentence (sentence imposed minus good time divided by three) and has at least 60 days remaining to a firm release date;
   c. Has not been found guilty of a major or high moderate infraction within the past 120 days of incarceration and has no pending disciplinarians at either of those levels;
   d. If minimum custody grade, is within 38 months of a firm release date;
   e. If medium custody grade, is within 14 months of a firm release date;
   f. Does not have an active detainer of any kind; and
g. If current offense is a sex offense, there is a written report by staff of a DOC institutional sex offender treatment program attesting to satisfactory completion of such program during service of the sentence imposed for the current offense.

4. A prisoner who is pending possible revocation of probation or parole (i.e., a petition to revoke has been filed) due to failure to satisfy court-ordered program requirements during incarceration is not eligible for prerelease furlough consideration.

5. After completing the Prerelease Furlough Matrix, the probation officer shall have the prisoner sign the form indicating whether the prisoner requests consideration for a prerelease furlough. If the prisoner refuses to sign the form or does not wish to be considered, the probation officer shall forward a copy of the form to Central Classification for data collection purposes.

6. If the prisoner requests prerelease furlough consideration, the probation officer shall complete the Prerelease Furlough Application/Agreement Form (20-818.02B), sections A through E and forward the form and attachments to the Superintendent. Special conditions requested by the Probation Officer or Superintendent should be noted in sections E and F, respectively.

7. If the prisoner is incarcerated in a contract facility outside the state, the furlough criteria of both the contracting agency and the Alaska Department of Corrections must be met before a prisoner may be placed on prerelease furlough. Central Classification will respond to any furlough requests from an out-of-state contracting agency.

Approving Authority:

a. For prisoners sentenced to more than one year, Central Classification staff shall complete sections G or H, and, if the furlough is approved, will impose any special conditions and record same in section I.

b. Reduction to community custody becomes effective upon transfer to an Community Residential Program. Central Classification staff shall complete the information required in section H of the furlough agreement.

c. If the prerelease furlough is approved, Central Classification will notify the institution. The notification will include any special conditions or modifications imposed by Central Classification. The probation officer shall review all relevant furlough documents with the prisoner, and have the prisoner sign agreement with all conditions imposed by signing those documents. The probation officer shall complete section L and arrange for the prisoner’s placement in an approved CRP, or on the waiting list for a CRP. If the prisoner refuses to sign the Agreement, the probation officer shall forward a copy of the refusal to Central Classification for data collection purposes. The prisoner’s refusal to sign the furlough agreement will constitute refusal of the furlough.

d. If, while awaiting actual placement in a CRP, the prisoner becomes ineligible for a prerelease furlough due to disciplinary infractions or failure to continue compliance with court ordered or recommended programming, the institutional probation officer shall inform Central Classification. The latter may rescind the prior approval of prerelease furlough.

B. Denial of Prerelease Furlough

1. Denial of Prerelease Furlough will be indicated in section G of the Furlough Application/Agreement.

2. Notice of the denial will be sent to the holding facility by OBSCIS or other expedient means.

3. The institutional probation officer shall deliver a copy of the notice to the prisoner. The later will acknowledge receipt by signing the notice. If the prisoner refuses to sign the document it will be so noted and placed in the prisoner’s main institutional file.

4. The prisoner will be given a copy of the notice of denial.

5. The prisoner may appeal to the Deputy Commissioner, through the institutional probation officer, any aspect of a furlough action.

C. Prerelease Supervision
1. Caseload supervision of a furloughee who is in a community residential program will be by a furlough officer appointed by the Superintendent of the nearest correctional facility. Supervision of a furloughee who is not in a community residential program will be by a furlough officer appointed by the nearest Supervising Community Corrections Probation Officer.

2. The furlough officer shall maintain the prisoner case record for a furloughee, coordinate movement between CRPs if authorized by the Prerelease Furlough Agreement, and ensure that prerelease procedures and other case management duties which cannot be performed by the CRP are performed according to department policies.

D. Minimum Operating Standards for CRP

1. The restrictions and supervision required for a prerelease furlough shall provide safeguards that minimize risk to the public and include, as a minimum:
   a. Frequent contact with the furloughee by the CRP staff;
   b. Knowledge by CRP staff of the location of the prisoner;
   c. Periodic reports by the CRP to the department on the furloughee’s performance; and
   d. A residential setting in which CRP staff are obligated to immediately report to the department any violation of a condition set for the furloughee’s conduct.

2. The Director of Community Corrections shall approve standards for the operation of a CRP before authorizing the CRP to supervise furloughees. The Director shall maintain a list, updated at least annually, of CRPs approved for furlough placements, and make the list available to superintendents, institutional probation officers, and the Chief Classification Officer. The list shall include, at a minimum, the following information:
   a. Location of the CRP;
   b. Eligibility criteria for admission;
   c. Minimum and maximum length of placements;
   d. Maximum length of time and condition under which a furloughee may be authorized to be away from the residence, if any, including the minimum level of surveillance required when the furloughee is away from the residence, and
   e. A description of any phase, step, or level program.

E. Employment and Financial Requirements for Prerelease Furloughs

1. A furloughee may be permitted to participate in suitable employment under conditions and at wages that represent the prevailing standard for the area. A furloughee may not participate in employment where an organized labor dispute is in progress.

2. A furloughee who is allowed to secure employment outside the facility shall request the employer to send all paychecks directly to the CRP manager. If such an arrangement is not possible, the manager may authorize the furloughee to deliver the paychecks to the CRP.

3. The CRP manager is responsible for collecting, safekeeping, accounting, reporting, and disbursing all monies received from or on behalf of a furloughee. Any disbursement from the furloughee’s account must be authorized by the CRP manager in accordance with the furloughee’s approved budget plan.

4. A furloughee is required to pay the State of Alaska one-fourth of gross earnings for the cost of care in the CRP. However, this payment may not exceed the actual cost of participation in the CRP, as established by the Director of Community Corrections. The CRP manager shall transmit to the department each month a check payable to the State of Alaska in the total amount of all cost-of-care payments collected from the furloughees in the CRP. The CRP manager shall disburse the remainder of the furloughee’s earnings according to a budget approved by the furlough officer, reflecting the following order of priority:
   a. Child support payments as required by AS 25.27.062;
b. Any restitution or fine ordered by the court;

c. A civil judgment arising out of the criminal conduct of the furloughee;

d. Reimbursement to the state for an award made for Violent Crimes Compensation under AS 18.67;

e. Outstanding restitution or reimbursement resulting from a disciplinary sanction; and

f. The prisoner’s account.

5. Only earnings retained by the CRP manager under IV.E.4.f are subject to lien, attachment, garnishment, execution, or other proceedings to encumber money or property.

F. Violations of Prerelease Furlough Conditions

1. If a violation of the prerelease furlough conditions is alleged, the CRP manager shall immediately notify the furlough officer or, if the furlough officer is unavailable, the shift supervisor of the nearest state correctional institution (within the Municipality of Anchorage, the Cook Inlet Pretrial Facility for felons and the Sixth Avenue Correctional Center for misdemeanants). The CRP manager shall forward a written report to the furlough officer by the end of the next working day. In the event of a walkaway it shall be the responsibility of the CRP manager or designee to complete an escape flyer, and transmit same to the shift supervisor by the most expedient available means.

2. If, as a result of the alleged violation, the furlough officer or shift supervisor determines that a furloughee poses an immediate threat to public safety or to the security of the CRP, the furlough officer or shift supervisor will arrange to have the furloughee returned to the state correctional facility. If there is a dispute between the furlough officer and the shift supervisor or the superintendent as to the need to return the prisoner to the confinement, the prisoner shall be returned to confinement and the question referred to the Chief Classification Officer for a final decision.

3. A furloughee who is alleged to have violated the conditions of a furlough but who does not, in the opinion of the furlough officer or shift supervisor, pose a threat to public safety may not be returned to actual confinement in a state correctional center until a preliminary hearing is held at which a determination is reached that there is probable cause to believe that the violation(s) occurred. The hearing shall generally be conducted by the furlough officer, however, the furlough officer may designate another person who was not involved in the allegation of violation of conditions of furlough to act as the hearing officer.

a. The furloughee is entitled to at least 12 hours’ advance written notice of the preliminary hearing; and the notice must inform the furloughee that the purpose of the hearing is to determine whether probable cause exists to believe that the furloughee has violated the conditions of the furlough, and what conditions are alleged to have been violated.

b. The furloughee is entitled to appear and speak on his or her own behalf, present letters, documents, or individuals who can give relevant information to the hearing officer, and upon request, have any person who has given information adverse to the prisoner questioned in the presence of the furloughee unless the hearing officer determines that the person would be subjected to risk of harm if the person’s identity were disclosed.

c. The hearing officer shall summarize in writing the evidence presented at the hearing, and shall issue a written decision as to whether probable cause exists to believe the prisoner has violated the conditions of the furlough. A copy shall be delivered to the furloughee and the original placed in the prisoner’s case record.

4. A furloughee returned to actual confinement in a state correctional facility under V.F. 2 or 3 must be granted a classification hearing within seven days to determine whether the prerelease furlough will be terminated or continued, and to consider a custody increase for a prisoner whose furlough is terminated. In addition, the furloughee is also subject to disciplinary sanctions as set out in 22 Aac 05.400-480.
5. If the furlough is continued, the furloughee shall be returned to a CRP as soon as space is available or placed on the waiting list for space if it is not available.

6. If a furloughee who is under supervision as an out of CRP placement is alleged to have violated any condition(s) of the furlough, the supervising furlough officer will make a determination as to whether there is an immediate threat to public safety, and either remand the furloughee to custody or hold a preliminary hearing to determine a further course of action. If appropriate, a final revocation hearing will be scheduled with institutional staff.

G. Failure to Return or Be At Authorized Location

1. The failure of a furloughee to return to the place of confinement or residence within the time specified by those having direct supervision over the furloughee is an unlawful evasion under AS 11.56.340-350 and the furloughee is subject to criminal prosecution as well as termination of the furlough and disciplinary action.

2. Within one hour of determining that a furloughee is not present at the authorized residence or other location authorized in writing by the CRP manager, the CRP manager shall notify the furlough officer or, if the furlough officer is unavailable, the shift supervisor of the nearest state correctional institution. Upon receipt of the completed escape flyer, the furlough officer or shift supervisor shall immediately notify law enforcement officials.

Implementation

This policy and procedure is effective as of the date signed by the commissioner.

Date

[Signature]
J. Frank Frewitt, Jr.
Commissioner

Forms Applicable to this policy:
20.818.02A