

*State of North Carolina
Department of Correction
Division of Prisons*

Chapter: F
Section: .0400
Title: **Emergency Leave**
Issue Date: 10/03/05
Supersedes: 08/26/02

POLICY & PROCEDURES

.0401 General

This policy establishes specific procedures for granting emergency leave to inmates within the North Carolina Division of Prisons pursuant to General Statute 148-4.

.0402 Approving Authority

The Director of the Division of Prisons has been designated by the Secretary of Correction as the approving authority under circumstances requiring an extension of the limits of the place of confinement of any inmate confined within the North Carolina Division of Prisons. The Director will exercise this authority in accordance with the following regulations:

- (a) In-State Emergency Leaves – The authority of the Director of Prisons to extend the limits of the place of confinement shall be delegated for close, medium and minimum custody inmates only as follows:
 - (1) Minimum Custody Inmates – Facility Superintendents shall have the authority to extend the limits of confinement for minimum custody inmates requesting emergency leaves in-state. Staff supervision is at the discretion of the Facility Head.
 - (2) Medium Custody, Close Custody and Control Population Inmates – Inmates assigned to HCON, MCON, and ICON should not be allowed to attend a funeral service or private viewing. Close custody and medium custody inmates should not be allowed to attend a funeral service. The Region Director, designee or duty officer may approve a close custody inmate in the regular population or on administrative or disciplinary segregation to attend a private viewing. The Facility Head or designee is the approving authority for medium custody inmates in regular population or on administrative or disciplinary segregation to attend a private viewing. Close custody and medium custody inmates approved for a private viewing may only have immediate family present at the time of the private viewing. Minimum custody inmates may, at the discretion of the Facility Head or designee, attend either a private viewing or funeral service. The Region Director, designee or duty officer is the approving authority for emergency leaves for all inmates with Life sentences regardless of custody classification. Medium custody and close custody inmates may not go to a private residence as part of an emergency leave.

.0403 Emergency Leave

- (a) Emergency leaves may be granted up to a maximum of 72 hours for minimum custody inmates and 24 hours for medium, and close custody inmates by the approving authority in accordance with Section F.0402 for the following reasons:
- (1) Critical illness of an immediate family member. The nature of the illness of an immediate family member shall be verified by competent medical authority. The meaning of the word “critical” implies probable death within a short period of time. The birth of a child will not be regarded as a critical illness unless the attending physician advises that the wife’s condition is abnormal or that unusually serious factors are involved.
 - (2) Death of an Immediate Family Member. Verification of the death of an immediate family member may be verified by law enforcement officials (Sheriff or Chief of Police), a physician, undertaker, or Director of Social Services. The immediate family will be limited to father, mother, brother, sister, husband, wife, child, foster parents, or other persons who have acted in the place of parents where such relationships can be verified.
- (b) Control Population Inmates – Inmates on control status should not be approved for emergency leave.
- (c) Emergency Leaves Outside the State of North Carolina. Emergency leaves outside the State of North Carolina shall be limited to minimum custody inmates subject to the approval of the Region Director or his/her designee. Minimum custody inmates authorized to leave the State of North Carolina shall be required to post a cash bond of \$500 with the superintendent or institution head. The posting of the bond shall be mandatory. Refer to DOC Fiscal policy .0800 for additional information. Additionally, each minimum custody inmate authorized to leave the State of North Carolina shall be required to sign the necessary waiver of extradition forms prior to his departure on emergency leave.

.0404 Fiscal Responsibilities

The approving authority as set forth above shall be responsible for administration of the fiscal responsibilities in accordance with DOC Fiscal policy .0800 (Emergency Leave).

.0405 Terminally Ill or Permanently and Totally Disabled Inmates

- (a) The Secretary of the Department of Correction may extend the limits of confinement for a terminally ill or permanently and totally disabled inmate to receive palliative care. This extension of the limits of confinement will be for a prescribed period of time and the inmate may be unaccompanied by a custodial agent. To be eligible for an extension of the limits of confinement under this provision, the following conditions must be met:
- (1) A Department of Correction’s physician determines that the inmate is “terminally ill” or “permanently and totally disabled”. For the purposes of this policy, “terminally

ill” is defined as a condition caused by an illness or disease that causes physical incapacitation and will likely produce death within six months and is so debilitating that it is highly unlikely that the inmate poses a significant public safety risk. For the purposes of this policy, “permanently and totally disabled” is defined as permanent and irreversible physical incapacitation as a result of an existing physical or medical condition.

- (2) The illness or disease was unknown at the time of sentencing and was not diagnosed upon entry to prison.
- (3) The Department’s medical director shall notify the Secretary immediately when an inmate is classified as terminally ill and shall provide regular reports on inmates classified as permanently and totally disabled. For those inmates diagnosed as terminally ill, information should be available to the Secretary within 10 working days so a final determination can be made within 30 days of notification.
- (4) The inmate must be in minimum custody.
- (5) The Secretary of Correction determines that the inmate no longer poses a significant public safety risk.
- (6) The inmate must be pre-certified for acceptance into Hospice or to receive similar palliative care in the community. The Department of Correction will assume no financial cost associated with care or treatment for those inmates whose limits of confinement are extended under these provisions. DOP Health Services will investigate the possibility of community resources for provision of needed care.
- (7) If conditions described in items (1) through (4) of this section, F.0405, are met, DOC Victim Services will be notified. Victim Services will make reasonable efforts to contact registered victims. If no victims are registered, Victim Services will contact the District Attorney’s office in the sentencing county in an attempt to locate victim information. The contact by Victim Services for consultation with the victim will be by telephone. If no telephone number is available, a letter will be sent to the victims or victim’s families seeking their input. Victim Services will explain that the inmate is being considered for an extension of the limits of confinement based on the general statute. The specifics of General Statute 148-4 will be provided to the victims or families of the victims and a request for their input for consideration in the review process will be made. The confidentiality of the inmate’s health condition must be maintained, therefore, no specifics regarding the inmate’s health status may be released. Victim Services will document the details of the consultation and victim input on the OR07 OPUS screen. The confidentiality of the victim input shall be maintained. In any case in which a victim has been contacted for input, they will be notified by Victim Services of the outcome once a final decision has been reached. If an inmate is granted an extension of the limits of confinement under this provision the victim will be notified by the Office of Victim Services if the inmate is returned to custody or if the inmate dies.

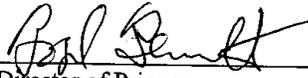
- (8) The Division of Prisons may request that the inmate be electronically monitored by the Division of Community Corrections. The Division of Community Corrections will immediately notify the Division of Prisons if the inmate leaves the authorized place of confinement. Failure to comply with the terms of the agreement of the extension of the limits of confinement will result in the inmate's return to custody. The failure of an inmate to remain within the extended limits of his/her place of confinement, or failure to return to custody if so instructed shall be deemed an escape from the Division of Prisons.
 - (9) Extensions of the limits of confinement will be granted in ninety-day intervals. The extension of the limits of confinement will be re-evaluated every ninety days and a decision will be made regarding whether an additional extension is to be granted or if the inmate needs to be returned to custody. Factors to include in the evaluation include changes in the inmate's medical condition and violations of the terms of the agreement.
 - (10) The Secretary of the Department of Correction or designee may at anytime return an inmate to custody that has been granted an extension of the limits of confinement.
- (b) Procedures for Administration of Extension of Limits of Confinement Under This Provision:
- (1) A request to consider an inmate for an extension of the limits of confinement under this provision may come from any source. Any such request would be referred to the Facility Head at the prison housing the inmate. The Facility Head should review the request in accordance with these guidelines and, if appropriate, refer the request to a Department of Correction physician. The Department of Correction physician, who may also initiate a request for a review of a specific case, will conduct an evaluation for an initial determination as to whether or not the inmate meets the criteria to be designated as terminally ill or permanently and totally disabled. If the physician determines that the inmate is terminally ill or permanently and totally disabled in accordance with these guidelines, the physician will request a review by the Director of Health Services.
 - (2) The Director of Health Services will review the case and make a determination as to whether or not the inmate meets the criteria established to designate the inmate as terminally ill or permanently and totally disabled.
 - (3) The Director of Health Services will refer the case of an inmate identified as terminally ill or permanently and totally disabled to the Director of Prisons.
 - (4) The Director of Prisons or designee will review the case and determine whether or not to refer the matter for investigation. If the decision is to continue the investigation, the Director of Prisons or designee will determine whether the inmate poses a threat to the community.
 - (5) At the same time the inmate's threat to the community is being evaluated, DOP

Health Services will investigate the possibility of the inmate's pre-certification for acceptance into Hospice or to receive similar palliative care in the community. DOP Health Services will investigate the possibility of community resources for provision of needed care, since the Department of Correction will assume no financial cost associated with this care.

- (6) DOP Health Services will notify the Director of Prisons or designee regarding the outcome of the investigation for palliative care. If pre-certification is not obtained, the case will be denied.
- (7) If the inmate is pre-certified for acceptance into palliative care, the Director of Prisons or designee will refer the case to the Office of Victim Services.
- (8) Victim Services will seek to contact the victims or victim's families, explain that the inmate is being considered for an extension of the limits of confinement, provide the specifics of General Statute 148-4 and seek their input for consideration in the review process.
- (9) Victim Services will relay the input from the victim, if any, to the Director of Prisons.
- (10) The Director of Prisons will make a recommendation to the Secretary of Correction. The Secretary of the Department of Correction will make a final decision regarding the case and will notify the Director of Prisons, the Director of the Division of Community Correction and Victim Services. The Director of Prisons will notify DOP Health Services and the Facility Head. Victim Services will notify the victim concerning the final decision of the Secretary of Correction.
- (11) If the inmate is approved for an extension of the limits of confinement to a location that is not in close proximity to the prison facility housing the inmate then arrangements should be made to have the closest prison facility to the palliative care facility to be the responsible facility, to include, handling the agreement for the extension of the limits of confinement and checking on the inmate. That facility becomes the responsible facility for the inmate.
- (12) The inmate will sign an agreement for the extension of the limits of confinement at the facility he/she is housed at. If the inmate is mentally ill, comatose or otherwise unable to sign the agreement, the inmate's guardian or individual with the power of attorney will sign for the inmate. The inmate, their guardian, the individual with the power of attorney, and medical professional responsible for the palliative care of the inmate must promptly notify the Facility Head of significant changes in the inmate's medical condition or in the circumstances of the extended limits of confinement.
- (13) The agreement will be granted in ninety-day intervals. The Facility Head will ensure that a re-evaluation occurs every ninety days. The Facility Head will make a recommendation and the final decision regarding the extension will be made by the

Director of Prisons or designee. The facility responsible for the inmate should make weekly unannounced checks to ensure compliance with the terms of the agreement for the extension of the limits of confinement.

- (14) The Division of Prisons may request that the Division of Community Correction electronically monitor the inmate. The Division of Community Correction will immediately notify the Facility Head if the inmate leaves the authorized place of confinement or if DCC determines that the inmate has tampered with the monitoring equipment. The Facility Head will then immediately return the inmate to custody.

 10-2-05
Director of Prisons Date

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