



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

Chapter: E
Section: .0700
Title: **Work Release**
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POLICY AND PROCEDURE

.0701 PURPOSE

The Work Release Program provides selected inmates the opportunity for employment in the community during the period of incarceration. The Department of Correction operates the Work Release Program to:

- (a) Respond to statutory requirements, by:
 - (1) Establishing rules and regulations for work release;
 - (2) Designing units for quartering work release inmates;
 - (3) Ensuring consideration and placement for inmates court ordered or court recommended or work release; and
 - (4) Managing and disbursing work release earnings as required by statute or court order.
- (b) Respond to the transitional needs of soon to be released inmates and the program and maintenance needs of longer term inmates.
- (c) Respond to community labor needs.
- (d) Respond to the need to support inmate families and to reduce the economic costs of prison.

.0702 WORK RELEASE ELIGIBILITY

Eligibility for work release participation is determined by the sentencing court, as follows:

- (a) Inmates sentenced for misdemeanor crimes after July 1, 1986, who are court ordered for work release are to be placed on work release as specified in the court order. Authorization for work release placement in this eligibility category is the sentencing court and consideration is not subject to custodial and correctional considerations as defined in E.0703 (b)(3)(A)(2) and (4).
- (b) Inmates sentenced to a total sentence length of five years or less who are court recommended for work release are to be placed on work release immediately. Authorization for immediate work release placement in this eligibility category is granted to the Director of Prisons by the Secretary of Correction unless:
 - (1) A suitable work release facility is unavailable in the area of the proposed

employment, or

- (2) Custodial and correctional consideration as defined in E.0703(b)(3)(A) would preclude granting work release.
- (c) Inmates sentenced or crimes committed after July 1, 1981, who are not court recommended for work release are eligible for work release under the conditions set forth in E.0703(c). Authorization for work release placement in this eligibility category is granted to the Director of Prisons by the Secretary of Correction.
- (d) Inmates sentenced for crimes committed prior to July 1, 1981, serving terms greater than five years are eligible for work release under the conditions set forth in E.0703(d) and only after approval by the North Carolina Parole Commission. Authorization for work release placement in this eligibility category is granted to the Secretary of Correction by the Parole Commission.
- (e) Inmates sentenced to multiple terms which place them in conflicting eligibility categories as defined herein will be determined as follows:
 - (1) Inmates sentenced to a misdemeanor offense with court ordered work release and also sentenced to a felony sentence are not eligible for immediate work release placement until the additional conditions of E.0703(b), (c) and (d) are met.
 - (2) Inmates sentenced for crimes committed before and after July 1, 1981, with sentence lengths greater than five years must meet the conditions of E.0703 (c) and (d).
 - (3) Inmates serving indeterminate sentences with a minimum of five years or less and a maximum of more than five years will be considered in the same category as inmates serving sentences greater than five years.

.0703 WORK RELEASE CONDITIONS

The following specific requirements must be met in order to grant work release for each eligibility category listed in E.0702:

- (a) Misdemeanants court ordered for work release.
 - (1) The commitment or court order from the sentencing court should provide:
 - (A) The date work release is to begin;
 - (B) The prison or local confinement facility to which the offender is to be committed;
 - (C) A provision that work release terminates the date the offender loses his job or violates the conditions of the work release program established by the Department of Correction; and

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- (D) A determination as to whether the earnings of the offender are to be disbursed by the Department of Correction or by the clerk of the sentencing court in the manner that the court in its order directs.
- (2) A misdemeanor court ordered for work release will be housed at the prison facility specified by the court. However, if the facility specified cannot house work release inmates due to overcrowding or other administrative purposes, inmates can be assigned to some other appropriate prison facility. For the purposes of this Rule, Overcrowding refers to a population count above the designated capacity for the facility. Administrative purposes are defined as management practices that determine the classification, custody, programs and security at each facility.
- (3) The inmate must not be awaiting trial on felony charges or have any felony detainers pending.
- (4) The inmate will be in minimum custody level III by the date work release is ordered to begin.
- (5) A misdemeanor court ordered for work release will be processed as outlined in E.0706(a).
- (6) If court ordered work release is delayed or disapproved, the classification authority will document the reasons for such action in OPUS. The inmate should be notified by a letter that sets forth the reasons for the delay or denial.
- (7) If an inmate who is court ordered for work release and has suitable employment is disapproved, the Facility Head or designee will notify the sentencing judge by letter noting the reasons for disapproval.
- (b) Inmates sentenced to a total sentence length of five years or less who are court recommended for work release and therefore requiring immediate work release placement.
- (1) The inmate must not be awaiting trial on felony charges or have any felony detainers.
- (2) The inmate must have suitable employment at the time of commitment in an area where there is a facility suitable for housing the inmate.
- (A) Suitable employment" shall require that:
- (i) The employer must pay at least the current minimum wage;
- (ii) The employer must participate in an insurance program, preferably the Worker's Compensation Program, which will compensate the inmate for injury by accident arising out of and

- in the course of employment;
- (iii) The work setting must provide an appropriately supervised environment. Employment by a family member is prohibited. A family member is defined as father, mother, brother, sister, husband, wife, child, aunt, uncle, grandparents, in-laws, foster parent or other persons who acted in place of parents where such relationships can be verified.
 - (iv) Inmates disciplined by a regulatory body established by laws for conduct related to their work will not be placed in the same or similar work without consultation with the regulatory body and prior approval of the Secretary of Correction.
- (B) The processing diagnostic center will confirm the job offer. Verbal verification will be followed up with a letter of confirmation except with a regular work release employer. The processing diagnostic center will notify the proposed unit of housing for work release directly by telephone and will request an investigation of the work release job plan. Information concerning the inmate, the crime, the job plan particulars, and the other information as appropriate, will be provided. The receiving unit will conduct the job investigation and will provide return notification to the referring diagnostic center by telephone within three (3) working days. Diagnostic center staff will send a notification to the receiving area via a DCI terminal transmission stating a request for an investigation has been made.
- (C) If a suitable facility is not within normal commuting distance of the inmate's employment, a contract may be negotiated with the county sheriff for housing the inmate at a local confinement facility.
- (D) If suitable employment is not available at the time of the commitment, all other provisions in this subsection do not apply until such employment is secured. The following procedure shall be followed:
- (i) The staff of the diagnostic center shall counsel and assist the inmate in his job search. The assistance shall include contracts with prospective employers on behalf of the inmate.
 - (ii) If suitable employment is not secured at the completion of the regular diagnostic process, the inmate shall be assigned to an appropriate field unit by the classification authority. The assignment should be made to facilitate the inmate's search for employment. The classification authority should consider promoting the inmate to minimum custody level III for work release only if otherwise eligible to further facilitate work

release development and placement. The following is a suggested priority list of assignment locations.

- (I) An appropriate facility close to the inmate's home;
 - (II) An appropriate facility within commuting distance of a promising job market;
 - (I) An appropriate facility which is a reasonable compromise of the above priorities.
- (iii) The program staff of the inmate's facility shall counsel and assist the inmate in his job search. The assistance shall include contacts with prospective employers. While seeking work release employment, the inmate may be given any appropriate duty assignment by the classification authority but the duty assignment shall not impair the inmate's opportunity for work release. When suitable employment is obtained, the inmate shall immediately be processed in accordance with this subsection.
- (3) The following custodial and correctional considerations, as defined in (A) below, will preclude the inmate's participation in the work release program.
- (A) Even though an inmate is court recommended for work release, the inmate may be denied work release privileges by the classification authority under the following conditions:
- (i) The inmate has a prior criminal or prison record of escape or assaultive behavior which would normally result in the denial of work release privileges to an inmate who had not been recommended by the court;
 - (ii) The inmate has committed infractions subsequent to commitment under the sentence recommending work release which would normally result in the denial of work release privileges to an inmate who had not been recommended by the court;
 - (iii) The inmate has a serious health problem, mental or physical, which warrants immediate treatment or observation on a continuing basis. This problem shall be fully documented in OPUS; or
 - (iv) The inmate has committed major rule violations during a previous term of confinement during work release participation of sufficient magnitude to give cause for current program

disapproval.

- (B) If there is reason to believe that an inmate is subject to denial of work release privileges, his placement on the work release program may be temporarily delayed by the classification authority pending further study of his case and the final decision of the classification authority.
 - (C) If court recommended work release is delayed or disapproved, the classification authority will document the reasons for such action in OPUS. The inmate should be notified by a letter which shall set forth the reasons for the delay or denial.
 - (D) If an inmate who is court recommended for work release and has suitable employment is disapproved pursuant to the conditions of E.0703 (b)(3)(A)(1) through (4), the Facility Head or his designee will notify the sentencing judge by letter noting the reasons for disapproval.
- (4) Subject to the considerations set forth in E.0703(b)(3), all inmates with court recommendations for work release are immediately to be placed in a minimum custody level III, for the purpose of work release only. The inmate will not have any other community privileges unless approved as provided in the existing policy relating to outside activities (F .0600).
 - (5) Transfer to the appropriate facility will be processed by the classification authority. Court ordered/recommended inmates approved for work release shall receive first priority for housing assignments and transfers. A priority list shall be established within each area. Court recommended and approved inmates shall receive the top priority based on the length of time in the prison system. The remainder of the list shall be composed of other inmates approved for work release in order of length of time since receipt of approval.
 - (6) Inmates with a court recommendation for work release should be processed, transferred and placed on work release within ten working days of admission unless custodial and correctional considerations clearly preclude such an assignment or a work release facility is unavailable in the area of proposed employment.
 - (7) A court recommendation which states work release is recommended or which states immediate work release is recommended will be interpreted as requiring immediate work release placement.
- (c) Inmates sentenced for crimes committed after July 1, 1981, who are not court recommended for work release.
 - (1) Inmates serving sentences totaling five years or less are eligible for immediate work release consideration. Those sentenced to greater than five years must be

- within three years of the maximum release date or parole eligibility date except as approved by the Director of Prisons.
- (2) The inmate must not be awaiting trial on felony charges or have any felony detainers pending.
 - (3) Suitable employment as defined in E.0703(b)(2)(A) must be available prior to work release placement but approval for the work release program can be granted before an employment plan is developed.
 - (4) If a suitable facility is not within normal commuting distance of the inmate's employment, a contract may be negotiated with the county sheriff for housing the inmate at a local confinement facility.
 - (5) The inmate must be in minimum custody level III by the date work release is to begin.
 - (6) The inmate must not have had either an escape within six months or a major infraction within three months of work release approval.
- (d) Inmates sentenced for crimes committed prior to July 1, 1981, with sentences greater than five years.
- (1) The inmate must be within three years of the maximum release date or parole eligibility date, except as approved by the Director of Prisons.
 - (2) The inmate must have approval of the Parole Commission. For those inmates on approved MAPP Agreements with a total sentence length of less than thirty years, the MAPP Agreement represents work release approval by the Parole Commission.
 - (3) The inmate must not be awaiting trial on felony charges or have any felony detainers pending.
 - (4) Suitable employment, as defined in E.0703(b)(2)(A) will be required for placement and may be required for Parole Commission approval as stated in E.0707(g).
 - (5) If a suitable facility is not within normal commuting distance of the inmate's employment, a contract may be negotiated with the county sheriff for housing the inmate in a local confinement facility.
 - (6) The inmate must be in minimum custody level III status on the date he is to begin participating in work release. However, approval for work release may be requested through the Parole Commission prior to attaining minimum custody level III.
 - (7) The inmate must not have either an escape within six months or a major infraction

within three months of work release approval.

.0704 CONCURRENT: CONSECUTIVE SENTENCES

- (a) Inmates Received at the Diagnostic Center.
- (1) In certain situations an inmate will have concurrent or consecutive sentences and not be court recommended for work release on all sentences and therefore the negative findings controls. However, if the total sentence length is five years or less, the inmate remains eligible for immediately work release consideration. If the total sentence length is greater than five years, the inmate must be approved for work release in accordance with E. 0703 (c).
 - (2) It is possible that a sentencing judge may have simply neglected to make a finding regarding work release. This is not likely in cases where the same judge imposes both sentences or where the sentence without the recommendation is a less serious misdemeanor. When this occurs, the director of the diagnostic center should be notified as soon as possible. The diagnostic center director will send a letter to the inmate informing him that he is ineligible for the work release program but that he may be placed on the program if the inmate or the inmate's lawyer can secure a recommendation from the sentencing judge. If he cannot, he must be specifically approved in accordance with E.0703 (c).
 - (3) A recommendation may be presented in the form of a corrected commitment or a letter of recommendation from the sentencing judge. Upon receipt of a corrected commitment or letter of recommendation, the addressee shall immediately notify the approving authority at the facility to which the inmate is assigned. The approving authority shall process the inmate in accordance with E.0703 (b) if total sentence length is five years or less.
- (b) Inmates Presently Assigned to Work Release. When an inmate is already assigned to the work release program and a second sentence without a recommendation for work release is received, the following procedure should be followed:
- (1) If the second sentence is five years or less and consecutive sentences total a maximum of five years or less, the approving authority may either leave the inmate on work release pending clarification of the court's intentions or, depending upon the nature of the second offense, remove the inmate from work release pending clarification. If the nature of the offense resulting in the second sentence is such that it appears that the inmate's presence in the community would create an unnecessary risk, the inmate should be removed from the work release program pending clarification. The inmate should be informed of his status by letter. The letter should instruct the inmate that reinstatement is possible if he or his lawyer can secure a recommendation from the sentencing judge in the form of a corrected commitment or a letter of recommendation. If a recommendation is received, the inmate will be immediately processed in accordance with E.0703(b).

If no recommendation is received, the inmate normally shall be removed from the work release program unless otherwise eligible under E.0703(c). Careful consideration with justification documented should be afforded inmates who are allowed to remain on work release without some form of recommendation from the sentencing judge. The Court's recommendation for work release on the first sentence should be considered as a positive factor if other conditions of E.0703 (c) are fulfilled.

- (2) If the second sentence is for more than five years or if consecutive sentences add up to a maximum of more than five years, the inmate should be informed by letter that he must be removed from his work release job and that he can not be reinstated without the approval of the Parole Commission or the Facility Head if sentenced for a crime after July 1, 1981.

.0705 PROBATION REVOKED

Only the court which revokes probation may make an acceptable recommendation for work release. If the revoking court recommends work release in a case with a sentence of five years or less, the inmate shall be processed in accordance with E.0703(b). If the revoking court fails to recommend work release, and the judgment suspending sentence does recommend work release, a letter should be sent to the inmate informing him that he is ineligible for the work release program but that he may become eligible if he or his lawyer can secure a recommendation from the revoking court. If a recommendation is received, the inmate shall be processed in accordance with E.0703(b) .

.0706 PROCESSING PROCEDURES

The following procedures specify actions to be taken to process work release for each eligibility category defined in E.0702.

- (a) The following applies to all misdemeanants who are court ordered for work release:
 - (1) Processing for misdemeanants who are court ordered for work release will include fingerprints, photographs, completion of DC-134 and 134A, personal property inventory, medical examination, psychological testing administered on a need-to-know basis, completion of OPUS documentation to include promotion to minimum custody level III for work release only and facility assignment. Verification of employment in accordance with E.0703 (b)(2)(B) and subsequent completion of sections A, B, C and D of the DC-190 will be accomplished.
 - (2) A misdemeanant court ordered for work release who has a job plan recognized or acknowledged by the sentencing court by notation on the commitment or other court document will be placed on that job upon verification of employment in accordance with E.0703(b)(2)(B). A work release job plan acknowledged by the court will not be required to meet the standards of suitable employment specified in E.0703 (b)(2)(A) and work release placement will move forward. The Facility

Head or designee will write the sentencing judge stating work release placement on the court acknowledged job plan has been approved based on the court order but that approval would not have been granted otherwise due to the job not meeting Department of Correction requirements for suitable employment. The letter should explain why the job plan does not qualify as suitable employment under Department of Correction guidelines (E.0703(b)(2)(A)).

- (3) If the sentencing court has not acknowledged a specific job plan for work release, policy requirements for suitable employment will apply.
 - (4) An inmate court ordered for work release who does not have a job plan at the time of commitment to prison will receive normal staff assistance in the job search as defined in E.0703 (b)(2)(D).
 - (5) The Director of the processing diagnostic center is designated as the approving authority for promotion and work release approval for misdemeanants who are court ordered for work release by the sentencing court.
 - (6) Transfer to the specified unit of assignment will be accomplished to ensure the inmate begins work release on the date specified in the court order or as soon thereafter as possible.
 - (7) The date the inmate begins work will be written in section G of the DC-190 by the Facility Head. The appropriate copies of the DC-190 will then be forwarded to the Work Release Accounting Office in Raleigh for clearing of section C and the opening of the Work Release Account.
- (b) The following applies to all inmates serving sentences of five years or less and recommended for work release by the sentencing court,
- (1) After completion of the reception process as defined in E.0706 (a) (1) above, the Director of the processing diagnostic center will approve promotion to minimum custody level III for work release only and will approve work release by entering and signing the appropriate IC02 and DC-190, unless custodial and correctional considerations preclude work release participation by the inmate. A negative finding at this level, however, will be referred to the Facility Head for final disposition. In any event, the approving authority will sign section H of the DC-190.
 - (2) After approval, the inmate will be transferred directly to the final facility of assignment by the processing diagnostic center to begin work release. The sending facility will be the approving authority for this classification action.
 - (3) The date the inmate begins work will be written in section G of the DC-190 by the Facility Head. The appropriate copies of the DC-190 will then be forwarded to the Work Release Accounting Office in Raleigh for clearing of section C and the opening of the Work Release Account.

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- (c) The following applies to all inmates serving sentences of five years or less who were either not recommended for work release by the sentencing court, or while court recommended, were not initially approved for the program.
- (1) Sections A, B, C, and D of form DC-190 are to be filled out by the program committee and submitted to the Facility Head for approval (Section H). The Facility Head will ensure that the conditions outlined in Section B are met. Generally, the DC-190 and OPUS documentation should be submitted in a package for consideration.
 - (2) After approval by the Facility Head, the DC-190 is submitted for approval as appropriate. If the inmate is housed in a county unit, the Facility Head is the approving authority. If the inmate is housed in an institution, the Institution Head is the approving authority. The approving authority shall sign Section H of the DC-190. If the recommendation is disapproved, all copies of the DC-190 should be returned to the originating facility.
 - (3) After approval by the Facility Head, the inmate may begin work. The date the inmate begins work will be written in Section G of the DC-190 by the Facility Head. The appropriate copies of the DC-190 will then be forwarded to the Work Release Accounting Office in Raleigh for clearing of Section C and the opening of the Work Release Account.
- (d) The following applies to all inmates serving sentences greater than five years.
- (1) Sections A, B, C, and D of the DC-190 are to be filled out by the staff and referred to the Facility Head for approval (Section H). The Region Director or designee is the approving authority for work release for inmates with Life sentences and for inmates with sentences totaling 80 years or greater. The Facility Head may refer additional cases to the Region Director or designee if the Facility Head deems the specific case warrants it. The Facility Head will ensure that the conditions outlined in Section B are met. Generally, the DC-190 and IC03 should be submitted in the same time frame for consideration.
 - (2) The approving authority shall sign Section H of the DC-190. If the recommendation is disapproved, all copies of the DC-190 should be returned to and maintained at the facility housing the inmate.
 - (3) Following approval by the Facility Head, the DC-190 is forwarded to the Parole Commission except for inmates sentenced for crimes committed after July 1, 1981. Inmates sentenced for crimes committed after July 1, 1981, are placed on work release following final approval by the Facility Head.
 - (4) The inmate, Facility Head, and Work Release Accounting will be notified in writing (PC-28 and DC-190) by the Parole Commission of its decision for cases requiring Parole Commission approval.

- (5) The DC-190 is then submitted by the Facility Head to Work Release Accounting office in Raleigh after the inmate begins work. Work Release Accounting will open the work release account and will clear DC-190, Section C, with the Division of Social Services.

.0707 OTHER REQUIREMENTS/CONDITIONS

- (a) Prior to final approval for Work Release participation, the IM06 screen (Victim County Conflict) will be reviewed to ensure that if there are victim conflicts relating to housing and community based program participation that those factors will be considered during the review. For additional information, refer to the DOP Victim policy D.0909.
- (b) If an inmate is to be transferred for the purpose of work release, comments should be entered on the IM11 screen in OPUS outlining classification actions and objectives should accompany the inmate's record to the receiving unit.
- (c) The inmate should be in the appropriate minimum custody level for work release at the time of transfer. This will prevent unnecessary delays.
- (d) The issue of restitution must have been considered and appropriate forms if the inmate has been court recommended or court ordered for restitution.
- (e) Appropriate disciplinary action for major infractions committed while on the work release program shall be at the discretion of the Disciplinary Hearing Authority.
- (f) Mutual agreement programming (individual contracts) should be considered, especially with felons, by the classification/program committee whenever possible. These arrangements should include programs such as GED/ABE, alcohol, drug treatment.
- (g) For inmates who are approved by the Parole Commission for work release, the Commission will require:
- (1) The submission of an acceptable job plan on a DC-190 by the Divisions of Prisons for initial job approval.
 - (2) The submission of any subsequent job changes to the Parole Commission are to be made by telephone. The Parole Commission may render their decision by telephone with written follow-up on form PC-28.
 - (3) Parole Commission approval for work release shall automatically be withdrawn anytime an inmate is removed from work release because of an infraction resulting in demotion to medium custody.
- (h) Facility staff will conduct periodic checks on inmates participation in the work release program at the rate of at least one time each month. These periodic checks can be by telephone or in person and will be documented at the facility.

.0708 TRANSPORTATION

Transportation to and from work release can be provided by the Department of Correction, by public transportation or by private individuals, subject to the following requirements:

- (a) Inmate transported by the Department of Correction will be charged a daily rate set by the Director of Prisons.
- (b) Inmates who use public transportation will be limited to the most direct route to and from the job site. The form of transportation and route to be used will be approved by the Facility Head of the work release facility.
- (c) Private individuals including members of the inmate's family can be approved to provide transportation to work release inmates by the Facility Head of the work release facility. Those persons providing transportation must have a valid drivers license. More than one individual can be approved to provide transportation for a work release inmate and persons providing transportation can transport more than one work release inmate. The Facility Head can disapprove any person requesting to provide transportation for any reason if in the judgment of the Facility Head approval would not be in the best interest of the inmate or would be contrary to continued successful participation on work release. The fee for private transportation will be determined at the time of approval. Those persons providing transportation to work release inmates shall be required to use the most direct route to and from the job site.
- (d) Facility Heads may enter into agreements with local transportation vendors to provide transportation for inmates on work release as long as the vendor is approved for such service and provides drivers with current Department of Motor Vehicles (DMV) appropriate licensure. To assure the best value for this service, Superintendents must advertise for transportation service in their local newspaper or obtain at least three bids from local vendors who provide such services. In the event the lowest bid is not selected, the Superintendent must document their rationale and submit it to the Region Director for final approval.
 - (1) Appropriate licensure is defined as a valid North Carolina Drivers License (NCDL) for vehicles with a gross vehicle weight of less than 26,000 pounds and transports fewer than 15 people including the driver.
 - (2) For vehicles with a gross vehicle weight of less than 26,000 pounds but capable of transporting more than 15 people a valid Commercial Drivers' License (CDL), Class C is required.
 - (3) For vehicles with a gross vehicle weight exceeding 26,000 pounds and capable of transporting more than 15 people, a valid Commercial Drivers License (CDL), Class B is required.
 - (4) To assure the "for hire" vehicle is properly licensed and certified for such transport, you should review the vendors Form E and their *Accord Certificate of Insurance* which must be for minimum of \$1.5 million. These two documents are

required for any vendor to engage in transport for hire business. This does not apply to taxi or bus services. Their criteria and licensure is governed by other public transportation regulations.

- (e) Work release inmates will not be permitted to drive to and from the unit to the job site; however, work release inmates can be granted driving privileges as part of their work release employment if approved by the Facility Head under the following conditions:
 - (1) The work release employer provides a letter stating driving privileges are necessary to perform the job to which the inmate is employed;
 - (2) The vehicle to be driven is owned and insured by the employers;
 - (3) The inmate has a valid drivers license;
 - (4) The inmate has not been convicted of driving while impaired; and
 - (5) The inmate's driving record shows no moving violations for the two years prior to admission to prison.

 9-18-07
Director of Prisons Date

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