

CHAPTER 44
WORK RELEASE

[Prior to 10/1/83, Social Services[770] Ch 24]
[Prior to 3/20/91, Corrections Department[291]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

201—44.1(904) Administration.

44.1(1) *Supervision.* Persons committed to the director of the department of corrections and approved for work release by the board of parole shall be supervised and housed by the judicial district departments of correctional services in accordance with the purchase of service agreement between the district departments and the department of corrections.

44.1(2) *Facility requirements.*

a. The facility staff shall ensure the provision and maintenance of a safe environment for the residents. Each facility shall comply with fire, building, health and safety regulations or standards applicable in the local jurisdiction.

b. The district department shall have written policy which ensures that at least one staff member is readily available to residents 24 hours a day in each work release facility.

c. The district departments shall have written policies which establish facility rules, possible sanctions and appeal procedures for all residents.

d. The district departments shall have written policies and procedures for searching work release residents and their property and for seizure of resident property or contraband.

e. The district departments shall have written policies and procedures which conform to appropriate statutes and regulations governing and reporting the use of physical force by work release facility staff.

f. The district departments shall have written policies and procedures for the control of a work release resident's property.

g. District department staff shall not purchase, directly or indirectly, property or services belonging to or being sold by any person under supervision except as specifically allowed under department of corrections policy.

h. The district departments shall have written policies which establish a grievance procedure for work release residents for activities other than disciplinary action.

i. The district departments shall have written policies and procedures which establish compliance with all federal PREA standards.

44.1(3) *Admission.*

a. The district departments shall admit residents in accordance with the purchase of service agreement with the department of corrections or federal correctional agencies.

b. At the time of intake, the facility staff shall discuss with each resident program goals, services available, rules governing conduct in the facility, disciplinary procedures, client fiscal management and residents' responsibilities, rights, communication privileges, and all federal PREA orientation and education standards and shall obtain written documentation from the resident that these matters were discussed.

44.1(4) *Earned time.* Earned time shall be awarded in accordance with department of corrections policy.

44.1(5) *Records.*

a. The district department shall maintain records for state work release clients as required by the department of corrections.

b. The district departments shall maintain a case record for each client under supervision which shall include, when applicable, the following: (1) Identification data, (2) institutional information packet, (3) case plan, (4) restitution plan, (5) work release plans, (6) generic notes, (7) disciplinary reports, (8) hold orders, (9) transfer reports, (10) parole progress reports, (11) signed release of information forms, and (12) discharge reports.

Written procedures shall exist at the facility concerning the security, maintenance, accessibility, closure and destruction of said case records.

c. Districts shall have statewide approved written policies and procedures which ensure the use of the statewide case management system. Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors in an effort to mitigate the probability for future violence, criminal behavior and victimization. By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on clients who pose a greater risk to reoffend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core correctional practices to include: ongoing risk needs assessment, case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.

[ARC 9097B, IAB 9/22/10, effective 10/27/10; ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter; ARC 4152C, IAB 12/5/18, effective 11/14/18]

201—44.2(904) Provision of services.

44.2(1) Contingency plan. The district department shall have contingency plans that will ensure proper continuation of the program in the event of an emergency.

44.2(2) Food service.

a. The district department shall have policies and procedures which ensure that all work release residents have access to three meals a day during the week and two meals on weekend days and that meals provided at the work release facility meet recognized minimum daily nutritional requirements.

b. The district department shall have written policies which ensure that if food service is provided, all facilities including kitchen equipment and food handlers comply with applicable health and safety laws and regulations as evidenced by a certificate of rating from the Iowa department of agriculture and land stewardship or local restaurant inspection unit.

44.2(3) Medical service.

a. The district department shall refer for a medical examination any work release resident suspected of having a communicable disease, which safeguards both residents and employees. Employees who contract a communicable disease, except common colds, should not be permitted to work in a facility until the danger of contagion is ended. For purposes of this rule, communicable disease shall mean any disease which is transmittable from one person to another and is either temporarily or permanently debilitating.

b. The district department shall have written policies and procedures which govern the medical care of work release residents in case of emergencies, sudden illnesses, accidents, or death.

c. The district department shall have written policies and procedures governing the method of handling prescription and nonprescription drugs.

d. In compliance with Iowa Code section 905.15, the district department shall have written policies and procedures to prevent the transmission of contagious infectious disease. Notification to facility personnel is required if any person committed to the facility is found to have a contagious infectious disease.

44.2(4) Visitation. The district department shall have written policies and procedures which provide for visitation, but visiting privileges may be limited to the extent necessary for security and management reasons.

44.2(5) Transportation. District department staff may provide transportation for residents in order to facilitate program objectives or to transport residents for security purposes.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

201—44.3(910) Restitution.

44.3(1) Restitution plan of payment. The district departments shall have a policy and procedure for restitution. The restitution policy and procedure shall be administered in accordance with local judicial procedure and the Code of Iowa.

44.3(2) Compliance.

a. The work releasee shall submit payments in a timely manner to the clerk of court or district department.

b. If payments are made to the clerk of the district court, the work releasee shall provide the district department proof of payments.

c. The district department shall provide statements to the appropriate clerks of court when community service is ordered in lieu of financial restitution.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

201—44.4(904) Resident finances.

44.4(1) Residents shall surrender earnings to the facility in accordance with Iowa Code section 904.905.

44.4(2) The district departments of correctional services shall provide for proper accounting for the receipt and disbursement of resident earnings, in accordance with fiscal requirements established in 201—subrule 40.5(8).

201—44.5(904) Furloughs. The district departments shall administer furlough programs for work release clients in accordance with the department of corrections work release manual.

201—44.6(904) Violations.

44.6(1) *Preplacement violations.* When disciplinary problems occur with residents who have been approved for work release but not yet placed, designated staff shall determine whether or not the situation is serious enough to warrant further review by the board of parole. Designated staff herein shall mean authorized persons from the judicial district department of correctional services, the deputy director of community-based corrections, or the sending institution.

44.6(2) *Postplacement violation.* Work release violations may be classified as technical, minor, or major in accordance with state policy depending on the seriousness and frequency. Such classification shall determine the sanction or range of sanctions to correspond with the violation(s).

44.6(3) *Request for temporary custody.* Requests for temporary custody in a county jail or municipal holding facility may be issued by an authorized staff person of the district department of correctional services, in those cases where the resident is considered dangerous, likely to flee or in serious violation of the work release program. The requests shall be consistent with department of corrections policy.

44.6(4) *Out of place/escape.* Residents who are out of place of assignment are considered in serious violation of work release rules and possibly guilty of a felony under Iowa Code section 719.4. Escapes shall be reported to designated authorities in accordance with department of corrections work release policy and critical incident policy.

44.6(5) *Reimbursement for transportation.* Transportation costs incurred due to a work releasee escaping or absconding shall be assessed against the work releasee. The amount of reimbursement shall be the actual cost incurred by the department of corrections or the judicial district department and shall be credited to the support of correctional services account from which the billing occurred. Actual cost shall mean the following:

1. Actual salary, to include overtime, of all personnel required to return the work releasee.
2. Actual personal expenses of personnel involved.
3. Ground mileage at the rate paid to state employees.
4. Actual cost of any common carrier fare for personnel and the work releasee. Air fare shall be booked at regular coach.

44.6(6) *Transfer hearings.* The district department shall petition the state department of corrections for a transfer review on residents guilty of serious work release violations. Designated state staff shall determine whether or not the resident is to be transferred to a secure institution.

44.6(7) *Special transfers.* Transfers from one facility to another or from a facility to a designated Iowa classification center may be allowed in special circumstances with the approval of the department of corrections.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

201—44.7(904) Discharge. Under no circumstances shall work release supervision extend beyond the expiration of a work releasee's sentence.

201—44.8(904) Federal contracts for work release. In order to qualify nonfederal work release clients for employment in the performance of federal contracts, under presidential Executive Order 11755, each judicial district department of corrections shall ascertain:

44.8(1) That the rate of pay and other conditions of employment shall be at a similar rate and mode to others employed in like duties;

44.8(2) That employment of the work release client will not result in the displacement of other persons already employed; will not be utilized where a surplus of labor exists; will not harm existing contracts; and

44.8(3) Representatives of affected unions will have been consulted.

201—44.9(904,910) Home work release. Pursuant to Iowa Code section 904.901, home work release provides the opportunity in exceptional circumstances for qualified clients of correctional institutions to return to their homes.

44.9(1) Administration.

a. Supervision. Persons committed to the director of the department of corrections and approved for home work release by the board of parole shall be supervised by the judicial district departments of correctional services in accordance with contractual provisions between the district departments and the department of corrections.

b. Housing requirements. The physical structure shall provide for adequate space, meet basic sanitary requirements and be in good repair. A functional telephone will be available to the client in the residence at all times. The residence shall not be occupied by persons outside the nuclear family except in rare instances where financial considerations are a factor and prior approval has been granted by the board of parole or the deputy director.

c. Admission.

(1) The district departments shall assume supervision of home work releasees in accordance with a contract with the department of corrections or federal correctional agencies.

(2) At the time of supervision, the staff shall discuss with each home work releasee program goals, services available, rules governing conduct, disciplinary procedures, the home work releasee's fiscal management, responsibilities, rights and communication privileges and shall obtain written documentation from the home work releasee that these matters were discussed.

d. Travel. Supervisory staff may grant permission for travel within the state. Standard policy will apply to out-of-state travel.

e. Earned time. Earned time shall be awarded in accordance with department of corrections policy.

f. Records.

(1) The district department shall maintain records for state home work release clients as required by the department of corrections.

(2) The district department shall maintain a case record for each home work releasee under supervision which shall include, when applicable, the following:

1. Identification date,
2. Institutional information packet,
3. Case plan,
4. Restitution plan,
5. Work release plans,
6. Generic notes,
7. Disciplinary reports,
8. Hold orders,
9. Transfer reports,
10. Parole progress reports,
11. Signed release of information forms, and
12. Discharge reports.

The district department shall have written procedures concerning the security, maintenance, accessibility, closure and destruction of said case records.

(3) The district departments shall have written policies and procedures which ensure that an individual case plan is maintained on each work release resident which includes a uniform, validated assessment of client risk, needs and protective factors, and resources utilized to meet those needs.

44.9(2) Restitution.

a. Restitution plan of payment. There shall be a restitution plan of payment developed on those home work releasees who have been court ordered to pay restitution unless the court ordered restitution plan of payment has been completed. Factors which must be considered in developing the restitution plan of payment are present income, employment, physical and mental health, education, financial situation and family circumstances.

The district department shall have written policies and procedures governing the development and modification of the restitution plan of payment. Final approval of the restitution plan of payment shall be by the district director.

The approved restitution plan of payment shall be forwarded to the appropriate clerk of court by the district department or to the person responsible for collection if collections are performed by the district department.

b. Compliance.

(1) The home work releasee shall submit payments in a timely manner to the clerk of court or the district department.

(2) If payments are made to the clerk of the district court, the home work releasee shall provide the district department proof of payments.

(3) The district department will provide statements to the appropriate clerks of court when community service is ordered in lieu of financial restitution.

44.9(3) Home work releasee finances. The home work releasee shall assume total financial responsibility, including medical expenses, for releasee care and the care of the releasee's minor dependent children. Neither the department of corrections nor the district department shall incur any expense on the part of the home work releasee or dependents.

44.9(4) Violations.

a. Preplacement violations. When disciplinary problems occur with clients who have been approved for home work release but not yet placed, designated staff shall determine whether or not the situation is serious enough to warrant further review by the board of parole. Designated staff herein shall mean authorized persons from the judicial district department of correctional services, the community services division or the sending institution.

b. Postplacement violation. Work release violations may be classified as technical, minor, or major in accordance with state policy depending on the seriousness and frequency. Such classification shall determine the sanction or range of sanctions to correspond with the violation(s).

c. Requests for temporary custody. Requests for temporary custody in a county jail or municipal holding facility may be issued by an authorized staff person of the district department of correctional services, in those cases where the home work releasee is considered dangerous, likely to flee or in serious violation of the work release program and shall be consistent with department of corrections policy.

d. Out of place/escape. Home work releasees who are out of place of assignment are considered in serious violation of work release rules and possibly guilty of a felony under Iowa Code section 719.4. Escapes shall be reported to designated authorities in accordance with department of corrections work release policy.

e. Reimbursement for transportation. Transportation costs incurred due to a home work releasee escaping or absconding shall be assessed against the home work releasee. The amount of reimbursement shall be the actual cost incurred by the department of corrections or the judicial district department and shall be credited to the support of correctional services account from which the billing occurred. Actual cost shall mean the following:

- (1) Actual salary, to include overtime, of all personnel required to return the work releasee.
- (2) Actual personal expenses of personnel involved.
- (3) Ground mileage at the rate paid to state employees.

(4) Actual cost of any common carrier fare for personnel and the home work releasee. Air fare shall be booked at regular coach.

f. Transfer hearings. The district department shall petition the department of corrections for a transfer hearing on home work releasees found guilty of serious work release violations. The hearing officer shall determine whether or not the home work releasee is to be transferred to the designated security institution.

g. Special transfers. Transfers to another residential facility or to an institution may be allowed in special circumstances with the approval of the department of corrections.

44.9(5) Discharge. Under no circumstances shall home work release supervision extend beyond the expiration of a home work releasee's sentence.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

These rules are intended to implement Iowa Code sections 904.901 to 904.909.

[Filed 5/26/78, Notice 3/22/78—published 6/14/78, effective 7/19/78]

[Filed emergency 8/29/83—published 9/14/83, effective 10/1/83]

[Filed 2/24/84, Notice 1/4/84—published 3/14/84, effective 7/1/84]

[Filed 4/4/85, Notice 10/24/84—published 4/24/85, effective 5/29/85]

[Filed 4/19/85, Notice 2/13/85—published 5/8/85, effective 6/12/85]

[Filed emergency 4/4/86—published 4/23/86, effective 4/4/86]

[Filed 7/11/86, Notice 5/7/86—published 7/30/86, effective 10/29/86]

[Filed emergency 2/20/91—published 3/20/91, effective 2/20/91]

[Filed 11/17/04, Notice 9/15/04—published 12/8/04, effective 1/12/05]

[Filed ARC 9097B (Notice ARC 8926B, IAB 7/14/10), IAB 9/22/10, effective 10/27/10]

[Filed ARC 3929C (Notice ARC 3806C, IAB 5/23/18), IAB 8/1/18, effective 9/5/18]¹

[Filed Emergency ARC 4152C, IAB 12/5/18, effective 11/14/18]

¹ September 5, 2018, effective date of ARC 3929C [amendments to chs 1, 5, 10, 11, 20, 38, 40, 41, 42, 43, 44, 45, 47, 50, 51] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 14, 2018.