

Wisconsin provides compassionate release to incarcerated individuals who are older or who have serious medical conditions through (1) **Sentence Modification Due to Extraordinary Health Condition or Age**<sup>1</sup> and (2) **Parole Due to Extraordinary Circumstances**.<sup>2</sup> The applicable form of compassionate release depends on the date of the crime for which an individual was sentenced:

- Individuals serving bifurcated sentences<sup>3</sup> for felonies committed **on or after** December 31, 1999, may be considered for a Sentence Modification Due to Extraordinary Health Condition or Age.
- Individuals sentenced for felonies committed **before** December 31, 1999, may be considered for Parole Due to Extraordinary Circumstances.

## **SENTENCE MODIFICATION DUE TO EXTRAORDINARY HEALTH CONDITION OR AGE**

### **I. ELIGIBILITY**

**Medical Condition/Age** – An incarcerated individual serving a sentence for a felony committed on or after December 31, 1999, may be considered for a Sentence Modification if (1) “afflicted” with an extraordinary health condition or (2) age 60 or older, with a specified portion of the sentence already served.<sup>4</sup>

- “Extraordinary health condition” is a condition such as advanced age, an infirmity or disability, or the need for medical treatment or services not available within the correctional institution.<sup>5</sup> Examples of potentially qualifying conditions include the following:<sup>6</sup>
  - Advanced age resulting in the need for ongoing assistance with activities of daily living, such as feeding, toileting, and personal hygiene;
  - Significant cognitive problems due to Alzheimer’s or another disease causing impairments in mental capacity, resulting in the person being unable to communicate coherently, conduct “self interests,” or recognize individuals;
  - Significant or end-of-life medical conditions (such as heart disease, cancer, and chronic obstructive pulmonary disease), with a strong likelihood the person will only live another six to 12 months or less;
  - Quadriplegia with underlying medical problems; and
  - One or more medical conditions that significantly impair the individual’s functioning and result in the need for assistance with activities of daily

living such as eating, toileting, walking, and transferring from a bed or chair.

- Age and Time Served – The individual is (1) age 60 or older, having served at least 10 years of the prison confinement portion of the bifurcated sentence;<sup>7</sup> or (2) age 65 or older, having served at least five years of the prison confinement portion of the bifurcated sentence.<sup>8</sup>

**Exclusions** – Individuals serving sentences for Class A or B felonies are not eligible for Sentence Modification Due to Extraordinary Health Condition or Age and Time Served.<sup>9</sup>

- Note that the statute states that only individuals who have committed Class B felonies are excluded; however, the Department regulation and policy also exclude individuals serving sentences for Class A felonies.<sup>10</sup>

## **II. APPLICATION/REFERRAL**

The incarcerated individual or an attorney, legal guardian, or person with the individual's Durable Power of Attorney for Health Care<sup>11</sup> may submit a *Petition to Modify Bifurcated Sentence: Geriatric/Extraordinary Health Condition* (Form DOC-2501).<sup>12</sup> The petition must be submitted to the appropriate Bureau of Offender Classification and Movement (BOCM) office along with a completed *Release Plan Information* form (Form DOC-745) and an *Authorization for Disclosure of Documents Related to Petition to Modify Bifurcated Sentence* (Form DOC-1163J).<sup>13</sup>

If petitioning on the basis of a health condition, the petition packet must also include affidavits from two physicians describing the incarcerated individual's diagnosis, symptoms, limitations in functioning, and prognosis.<sup>14</sup> The Department has an *Affidavit of Extraordinary Health Condition* form (Form DOC-3612) that physicians use to provide this information.<sup>15</sup>

## **III. DOCUMENTATION AND ASSESSMENT**

**Petition Review: Bureau of Offender Classification and Management** – BOCM staff review the petition and related documentation, ensuring that all the relevant forms and physicians' affidavits have been submitted.<sup>16</sup> Incomplete petitions are returned to the incarcerated individual (or person submitting on the individual's behalf) indicating the reason for the return, and that, once completed, everything can be resubmitted.<sup>17</sup> Once the packet is complete, BOCM staff obtain additional data on the incarcerated individual's most recent sentence computation, conviction information, and verification of time served.<sup>18</sup>

**Consultation and Notification: Offender Classification Specialist** – Based on the petition and related documents that BOCM staff gather, the facility's Offender

Classification Specialist (OCS) consults with the regional OCS to determine whether the incarcerated individual meets the statutory requirements.<sup>19</sup>

- If the individual does **not** meet the eligibility criteria, the regional OCS completes the relevant forms listing the reason for ineligibility and returns the petition packet to the individual (or person who filed the *Petition to Modify Bifurcated Sentence*).<sup>20</sup>
- If the incarcerated person **does** meet the eligibility criteria, the regional OCS notifies the following individuals: the appropriate Warden or Warden's designee, the individual's assigned Social Worker, the Division of Community Corrections (DCC) Regional Chief, the assigned DCC agent, and – if applicable – the Infirmity Social Worker and Bureau of Health Services Nursing Coordinator.<sup>21</sup>

**Release Planning: Multiple Staff** – The individual's assigned Social Worker facilitates the release planning process, working with the assigned DCC agent and Health Services Unit.<sup>22</sup> Within five working days of receiving a *Petition to Modify Bifurcated Sentence*, the Social Worker must coordinate a conference call with the DCC agent and any other appropriate staff to address the release plan and determine what actions are needed to move the petition forward.<sup>23</sup> The development of the release plan includes the following:

- Completing a COMPAS (Correctional Offender Management Profiling for Alternative Sanctions) assessment;<sup>24</sup>
- Providing assistance with obtaining Social Security benefits and/or health insurance through the Affordable Care Act;<sup>25</sup>
- Ensuring medication, medical information, and treatment are available upon release;<sup>26</sup>
- Determining a residence and means of financial support;<sup>27</sup>
- Recommending release conditions and community needs;<sup>28</sup>
- Recommending programming or anticipated referrals for programming, if appropriate;<sup>29</sup>
- Planning on how to address the individual's ongoing medical treatment needs.<sup>30</sup>

**Petition Review: Program Review Committee** – The Program Review Committee consists of the Regional OCS, the BOCM Director (or designee), a supervisor representing the Social Services Department, and the incarcerated individual's assigned Social Worker.<sup>31</sup>

- Scheduling – The regional OCS sets a date to review the petition with the Program Review Committee and advises the incarcerated individual of that date.<sup>32</sup> The Committee may defer its review, however, if it needs additional information relevant to the *Petition to Modify Bifurcated Sentence*.<sup>33</sup>
- Review Hearing
  - Department policy states that generally the incarcerated individual or person petitioning on the individual’s behalf, the individual’s attorney, and the Program Review Committee members participate in the review hearing.<sup>34</sup>
  - The review hearing includes a summary of the facts laid out in the petition, a presentation on why “public interest will be served” by a modification of the incarcerated individual’s sentence, and Committee discussion.<sup>35</sup>
  - The Program Review Committee may conduct the review hearing in person, by telephone or videoconferencing, or using any other virtual communication method the Department approves.<sup>36</sup>
- Factors – The factors the Program Review Committee considers when determining whether public interest will be served by a modification of the individual’s bifurcated sentence include the following:
  - The risk to the community (as determined by looking at the individual’s offense, time served, motivation and attitude toward the offense, adjustment to supervision, detainers or pending legal matters, effects of age or illness on the individual’s functioning and activities of daily living, custody classification, and impact on the victim);<sup>37</sup>
  - The individual’s adjustment to being in the correctional facility (as determined by looking at the conduct reports, positive changes in behavior while incarcerated, and demonstration of “good judgment and self-control”);<sup>38</sup>
  - Program participation, including the individual’s efforts in programs and educational achievements while incarcerated;<sup>39</sup>
  - The impact on Department resources (determined by assessing the individual’s compliance with medical treatments), financial impact on the Department and cost of the individual’s medical treatment, and the results of any psychological evaluations;<sup>40</sup> and

- The availability and viability of the individual’s release plan, including a “stable” residence upon release, resources to address any health conditions and living costs, and community supports.<sup>41</sup>

### **Petition Decision and Referral to Sentencing Court: Program Review Committee**

- If the Committee unanimously agrees that the individual’s *Petition to Modify Bifurcated Sentence* should move forward, it will refer the petition to the Sentencing Court.<sup>42</sup>
  - Approved petitions (and all supporting documentation) are submitted to the Sentencing Court, the district attorney’s office, the incarcerated person or petitioner, and – if applicable – the individual’s attorney.<sup>43</sup>
- Denied petitions are **not** forwarded to the Sentencing Court.<sup>44</sup> If the Program Review Committee denies a *Petition to Modify Bifurcated Sentence*, the incarcerated individual must wait one year from the date of the denial to file a new petition.<sup>45</sup>

The Committee advises the DCC Agent and the Warden of the results of its review.<sup>46</sup>

## **IV. DECISION-MAKING PROCESS**

**Decision-Maker** – The Sentencing Court makes the final decision as to whether the public interest would be served by a modification of the individual’s sentence.<sup>47</sup>

**Notice** – After setting a hearing date, the Court must provide “adequate” notice of the hearing date to the incarcerated individual, the Department, the attorney representing the individual, and the district attorney.<sup>48</sup> Once the Sentencing Court schedules a hearing, the clerk must send a notice of hearing to the victim if notification has been requested.<sup>49</sup>

**Hearing** – The incarcerated individual must prove “by the greater weight of the credible evidence” that a modification of the bifurcated sentence would serve the public interest.<sup>50</sup> If the individual proves this, the Court will modify the sentence. If not, the Court will deny the petition for modification.<sup>51</sup>

- The incarcerated person and the district attorney have the right to be present at the hearing.<sup>52</sup> The victim of the individual’s crime also has the right to be at the hearing and to provide a statement regarding the proposed Sentence Modification.<sup>53</sup>

**Decision** – If the Sentencing Court approves the *Petition to Modify Bifurcated Sentence (Geriatric/Extraordinary Health Condition)*, the individual’s sentence is modified by reducing the “term of confinement in prison” portion of the sentence and

lengthening the “term of extended supervision” imposed so that the total length of the original bifurcated sentence does not change.<sup>54</sup>

- The Sentencing Court’s decision is detailed on the *Order Concerning Sentence Modification (Geriatric/Extraordinary Health Condition)*, and the Court provides copies to the individual, the individual’s attorney, the Department, and the relevant district attorney.<sup>55</sup>

## V. POST-DECISION

**Release Plan** – When the Sentencing Court notifies the Department that it has granted the individual’s petition for Sentence Modification, the Department’s records staff, Social Worker, and DCC staff must coordinate and implement the approved release plan with health services and other appropriate staff.<sup>56</sup>

### Appeals and Denials

- New Petitions – If the Program Review Committee approves a petition for referral to the Sentencing Court but the Court denies the petition, the incarcerated individual must wait one year from the date of the Court’s decision to file a new petition.<sup>57</sup>
- Appeals
  - If the Court **denies** the petition for Sentence Modification, the individual may appeal.
  - If the Court **grants** the individual’s petition for Sentence Modification, the state may appeal the Court’s decision.<sup>58</sup>
  - Note that the Appellate Court may reverse a decision granting or denying a petition for Sentence Modification only if it determines that the Sentencing Court “erroneously exercised its discretion” in granting or denying the petition.<sup>59</sup>

**Supervision** – Individuals granted a Sentence Modification are released to “extended supervision” and are still considered to be in the legal custody of the Department.<sup>60</sup> The Department’s Division of Community Corrections carries out the supervision.<sup>61</sup>

**Termination/Revocation** – If the Department finds that the individual has violated any condition or rule of extended supervision, the person is returned to prison.<sup>62</sup>

## **VI. REPORTING/STATISTICS**

The Department is not required by Wisconsin law to publish the numbers of individuals granted Sentence Modification Due to Extraordinary Health Condition or Age. However, in response to FARM's request for information, the Department reported the following:<sup>63</sup>

- In 2019, the Department approved nine individuals for Sentence Modification Due to Extraordinary Health Condition or Age and denied 11 individuals.
- In 2020, the Department approved 19 individuals for Sentence Modification Due to Extraordinary Health Condition or Age and denied 119 individuals.

## **PAROLE DUE TO EXTRAORDINARY CIRCUMSTANCES**

The Department does not provide public information on Parole Due to Extraordinary Circumstances for eligible individuals serving sentences for felonies committed **before** December 31, 1999. However, press reports in 2020 indicate that the Department is still utilizing this form of compassionate release.<sup>64</sup>

### **I. ELIGIBILITY**

**Medical Condition/Age** – An incarcerated individual serving a sentence for a felony committed before December 31, 1999, who is older or has a medical condition, may be eligible for parole due to “extraordinary circumstances.” Department policy does not define this term in much detail, stating only that it includes advanced age, “infirmity” and disability, and/or being in need of treatment or services not available within the correctional institution.<sup>65</sup> None of those terms are defined in the parole statute or the relevant Department policies.

**Exclusions** – There do not appear to be any individuals excluded from consideration. Note that if the Department finds that “extraordinary circumstances” exist, individuals may be considered for Parole Due to Extraordinary Circumstances even if they have not yet reached their general parole eligibility date.<sup>66</sup>

### **II. APPLICATION/REFERRAL**

Requests for Parole Due to Extraordinary Circumstances are submitted to the Warden of the facility where the individual is incarcerated. An incarcerated individual or a guardian, the Warden, or the Chair of the Parole Commission may make a request.<sup>67</sup>

### **III. DOCUMENTATION AND ASSESSMENT**

The Warden reviews each request to determine whether an individual is statutorily eligible for consideration and then forwards the request to the Parole Commission Chair with a recommendation.<sup>68</sup>

### **IV. DECISION-MAKING PROCESS**

**Decision-Maker** – The Wisconsin Parole Commission is the final authority for granting all types of early release for individuals who committed crimes before December 31, 1999.<sup>69</sup>

**Release Consideration Interview** – The Chair may assign one or more parole commissioners to conduct a “release consideration” interview with the incarcerated individual.<sup>70</sup> Those with “extraordinary health conditions” may have legal counsel during the interview.<sup>71</sup>

**Decision** – Following the release consideration interview, a parole commissioner may recommend that the individual be (1) released with or without special conditions or (2) denied release and have consideration deferred for a specified period of time to continue monitoring the person’s condition.<sup>72</sup>

- The Chair makes the final determination as to whether the Commission can waive the individual’s “service sentence requirement” due to extraordinary circumstances.<sup>73</sup>
- The Parole Commission must give notice of the decision to the Court, district attorney, and victim of the crime.<sup>74</sup>

### **V. POST-DECISION**

**Supervision** – The Department’s Division of Community Corrections is responsible for supervising individuals released on Parole Due to Extraordinary Circumstances.<sup>75</sup>

### **VI. REPORTING/STATISTICS**

The Department is not required to report on how many individuals have been granted Parole Due to Extraordinary Circumstances based on medical conditions or advanced age. However, in response to FAMM’s request for information, the Department reported that in 2019 it granted three requests for Parole Due to Extraordinary Circumstances based on medical conditions or advanced age. The Department did not approve any requests in 2020.<sup>76</sup>

**WISCONSIN COMPASSIONATE RELEASE**  
**PRIMARY LEGAL SOURCES**

**SENTENCE MODIFICATION DUE TO  
EXTRAORDINARY HEALTH CONDITION OR AGE**  
(For Individuals Convicted On or After December 31, 1999)

**Statute**

Wisconsin Statutes, § 302.113 (9g) (2021), available through the Wisconsin State Legislature, <https://docs.legis.wisconsin.gov/statutes/statutes/302/113>.

**Regulations**

Wisconsin Administrative Code (2021), DOC [Department of Corrections] § 302.41, available through the Wisconsin State Legislature, [https://docs.legis.wisconsin.gov/code/admin\\_code/doc/302](https://docs.legis.wisconsin.gov/code/admin_code/doc/302).

Wisconsin Administrative Code (2021), PAR [Parole Commission] §§ 1.03 (9) and 1.08, available through the Wisconsin State Legislature, [https://docs.legis.wisconsin.gov/code/admin\\_code/pac/1](https://docs.legis.wisconsin.gov/code/admin_code/pac/1).

**Agency Policy/Publications**

Wisconsin Department of Corrections, Division of Adult Institutions, Policy and Procedures, Policy 302.00.13-TIS Petition to Modify Bifurcated Sentences for Geriatric/Extraordinary Health Condition (2021), <https://doc.wi.gov/DepartmentPoliciesDAI/3020013.pdf>.

State of Wisconsin Circuit Courts, *Petition to Modify Bifurcated Sentence (Geriatric/Extraordinary Health Condition)* (Form CR-254) (2019), available through the Wisconsin Court System website, <https://www.wicourts.gov/forms/CR-254.pdf>.

State of Wisconsin Circuit Courts, *Order Concerning Sentence Modification (Geriatric/Extraordinary Health Condition)* (Form CR-256) (2011), available through the Wisconsin Court System website, <https://www.wicourts.gov/formdisplay/CR-256.pdf?formNumber=CR-256&formType=Form&formatId=2&language=en>.

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## **WISCONSIN COMPASSIONATE RELEASE** **PRIMARY LEGAL SOURCES**

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### **PAROLE DUE TO EXTRAORDINARY CIRCUMSTANCES** (For Individuals Convicted Before December 31, 1999)

#### **Statute**

Wisconsin Statutes, § 304.06 (1m) (2021), available through the Wisconsin State Legislature, <https://docs.legis.wisconsin.gov/statutes/statutes/304>.

#### **Regulations**

Wisconsin Administrative Code (2021), PAC [Parole Commission] § 1.05 (2) (a), available through the Wisconsin State Legislature, [https://docs.legis.wisconsin.gov/code/admin\\_code/pac/1](https://docs.legis.wisconsin.gov/code/admin_code/pac/1).

#### **Agency Policy**

Wisconsin Department of Corrections, Executive Directive #31-Extraordinary Circumstances for Parole Consideration (Nov. 1, 2013).

- This directive is not available on the Department of Corrections website; to obtain a copy, contact the Department at 3099 East Washington Avenue, Madison, WI 53704, (608) 240-5000. A copy of the directive is also available on the Wisconsin *Forum for Understanding Prison* blog at <https://ffupstuff.files.wordpress.com/2018/09/exec-directive-31.pdf>.

## NOTES

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\* *Id.* means see prior note.

<sup>1</sup> Wis. Stat. § 302.113 (9g); Wis. Admin. Code DOC § 302.41; Wis. Admin. Code PAC §§ 1.03 (9) and 1.08; Wisconsin Department of Corrections/Division of Adult Institutions Policy and Procedures (DOC Policy) 302.00.13, TIS Petition to Modify Bifurcated Sentences for Geriatric/Extraordinary Health Condition.

<sup>2</sup> Wis. Stat. § 304.06 (1m); Wis. Admin. Code PAC § 1.05 (2) (a); Wisconsin Department of Corrections Executive Directive (DOC Directive) #31.

<sup>3</sup> A bifurcated sentence requires a period of initial confinement and a period of extended supervision. See Wis. Stat. § 973.01.

<sup>4</sup> Wis. Stat. § 302.113 (9g); Wis. Admin. Code DOC § 302.41 (1); DOC Policy 302.00.13, Procedure, § I.

<sup>5</sup> Wis. Stat. §§ 302.113 (9g) (a) (1) and (b); DOC Policy 302.00.13, Definitions.

<sup>6</sup> Wisconsin Department of Corrections, *Affidavit of Extraordinary Health Condition* (Form DOC 3612) (Feb. 20, 2019). This form is not publicly available on the Department website.

<sup>7</sup> Wis. Stat. § 302.113 (9g) (b) (2); Wis. Admin. Code DOC § 302.41 (1) (b); DOC Policy 302.00.13, Procedure, § (I) (B).

<sup>8</sup> Wis. Stat. § 302.113 (9g) (b) (1); Wis. Admin. Code DOC § 302.41 (1) (a); DOC Policy 302.00.13, Procedure, § (I) (A).

<sup>9</sup> Wis. Stat. § 302.113 (9g) (b); Wis. Admin. Code DOC § 302.41 (1). For more information on which crimes constitute Class A and Class B felonies, see Wisconsin Legislative Fiscal Bureau, *Felony Sentencing and Probation* (January 2019), Appendix 4-Classified Felony Offenses, [https://docs.legis.wisconsin.gov/misc/lfb/informational\\_papers/january\\_2019/0053\\_felony\\_sentencing\\_and\\_probation\\_informational\\_paper\\_53](https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2019/0053_felony_sentencing_and_probation_informational_paper_53).

<sup>10</sup> Wis. Stat. § 302.113 (9g) (b); Wis. Admin. Code DOC § 302.41 (1); DOC Policy 302.00.13, Procedure, § I.

<sup>11</sup> DOC Policy 302.00.13, Procedure, §§ II (A) and II (B).

<sup>12</sup> The Department version of the *Petition to Modify Bifurcated Sentence* (Form DOC-2501) is not publicly available; however, the State of Wisconsin Circuit Courts *Petition to Modify Bifurcated Sentence* (Form CR-254), which has identical content, is available online. See the Primary Legal Sources box at the end of this memo for the link.

<sup>13</sup> DOC Policy 302.00.13, Procedure, § II (C). The Department does not make these two forms publicly available; however, they are available from the Wisconsin *Forum for Understanding Prison* blog at <https://ffupstuff.files.wordpress.com/2015/02/compassionate-release-formsall.pdf>.

<sup>14</sup> One of the two affidavits must be completed by the Department physician currently treating the individual, and both affidavits must be notarized. DOC Policy 302.00.13, Procedure, § II (C) (4) (b). Note that although the policy says the medical affidavits must be submitted with the petition forms, it also says that the affidavits “shall be completed within 90 days of the date the petition is submitted.” *Id.*

<sup>15</sup> Wisconsin Department of Corrections, *Affidavit of Extraordinary Health Condition* (Form DOC 3612) (Feb. 2019). The form is not publicly available on the Department website.

<sup>16</sup> DOC Policy 302.00.13, Procedure, § III (B).

<sup>17</sup> Id. at § III (C).

<sup>18</sup> Id. at § III (E).

<sup>19</sup> Id. at § III (D).

<sup>20</sup> Id. at § III (G).

<sup>21</sup> Id. at § III (H).

<sup>22</sup> Id. at § III (K).

<sup>23</sup> Id. at § III (I).

<sup>24</sup> Id. at § III (K). COMPAS, or Correctional Offender Management Profiling for Alternative Sanctions, is a risk management and case management tool that the Wisconsin Department of Corrections uses. For more information, see <https://doc.wi.gov/Pages/AboutDOC/COMPAS.aspx>.

<sup>25</sup> DOC Policy 302.00.13, § III (K).

<sup>26</sup> Id. at § III (J).

<sup>27</sup> Id. at § III (L).

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> Id. at §§ III (J) and III (L) (5).

<sup>31</sup> Id. at § IV (A).

<sup>32</sup> Id. at § III (M).

<sup>33</sup> Id. at § V (A).

<sup>34</sup> Id. at § IV (B).

<sup>35</sup> Id. at § V (B).

<sup>36</sup> Wis. Admin. Code DOC § 302.41 (9).

<sup>37</sup> DOC Policy 302.00.13, Procedure, § V (C) (1).

<sup>38</sup> Id. at § V (C) (2).

<sup>39</sup> Id. at § V (C) (3).

<sup>40</sup> Id. at § V (C) (4).

<sup>41</sup> Id. at § V (C) (5).

<sup>42</sup> Id. at § VI (A). See also Wis. Stat. § 302.113 (9g) (cm); Wis. Admin. Code DOC § 302.41 (13).

<sup>43</sup> DOC Policy 302.00.13, Procedure, § VI (B).

<sup>44</sup> Id. at § VII (A).

<sup>45</sup> Wis. Stat. § 302.113 (9g) (i); DOC Policy 302.00.13, Procedure, § VII (B).

<sup>46</sup> DOC Policy 302.00.13, Procedure, § V (D).

<sup>47</sup> Wis. Stat. § 302.113 (9g) (d).

<sup>48</sup> Id. Note that an incarcerated individual has the right to be represented by counsel in Sentence Modification proceedings and may apply to the state public defender for appointment of counsel before or after the filing of the petition with the Program Review Committee. If the petition is referred to the Sentencing Court and the incarcerated individual does not have counsel, the Court may refer the matter to the state public defender's office for a determination of financial eligibility (i.e., indigence) and appointment of counsel. Id. at (9g) (j).

<sup>49</sup> Id. at (9g) (g) (1) through (g) (3).

<sup>50</sup> Id. at (9g) (e).

<sup>51</sup> Id.

<sup>52</sup> Id. at (9g) (d).

<sup>53</sup> Wis. Stat. § 302.113 (9g) (d); DOC Policy 302.00.13, § VI (D). Note that the courts stopped holding in-person hearings in early 2020 due to COVID-19. In June 2021, the Wisconsin Supreme Court terminated its order suspending in-person hearings and they resumed as of July 1, 2021. See Supreme Court of Wisconsin, *In re the Matter of Remote Hearings in Appellate Courts*, [https://www.wicourts.gov/supreme/docs/sco\\_remotehearingac.pdf](https://www.wicourts.gov/supreme/docs/sco_remotehearingac.pdf).

<sup>54</sup> Wis. Stat. § 302.113 (9g) (f).

<sup>55</sup> State of Wisconsin Circuit Courts, *Order Concerning Sentence Modification (Geriatric/Extraordinary Health Condition)* (Form CR-256).

<sup>56</sup> DOC Policy 302.00.13, Procedure, § VI (E).

<sup>57</sup> Wis. Stat. § 302.113 (9g) (i); DOC Policy 302.00.13, Procedure, § VII (B).

<sup>58</sup> Wis. Stat. § 302.113 (9g) (h).

<sup>59</sup> Id.

<sup>60</sup> Wis. Stat. § 302.113 (8m).

<sup>61</sup> Wisconsin Department of Corrections, Division of Community Corrections General Information webpage, "Probation, Parole, and Extended Supervision," <https://doc.wi.gov/Pages/AboutDOC/CommunityCorrections/GeneralInformation.aspx>.

<sup>62</sup> Wis. Stat. § 302.113 (8m).

<sup>63</sup> Email from Kea Schmidt, Wisconsin Department of Corrections, to FMM (July 23, 2021) (on file with FMM, Office of the General Counsel).

<sup>64</sup> Wis. Stat. § 304.06 (1m) (a); Wis. Admin. Code, PAC §§ 1.05 (2) (a) and 1.07 (8); DOC Directive #31, § IV. See also Isiah Holmes, “Seeking Clemency and Compassion During the COVID-19 Pandemic,” *Wisconsin Examiner* (May 8, 2020), <https://wisconsinexaminer.com/2020/05/08/seeking-clemency-and-compassion-during-the-covid-19-pandemic/>.

<sup>65</sup> DOC Directive #31, § III.

<sup>66</sup> *Id.* at §§ V and VI (A).

<sup>67</sup> *Id.* at § VI (A). Note that if the incarcerated individual has previously waived parole eligibility, that individual (or a guardian) must request reinstatement of parole eligibility prior to any action being taken. See Wis. Admin. Code, PAC §§ 1.05 (4) through (6).

<sup>68</sup> DOC Directive #31, § VI (B).

<sup>69</sup> The Parole Commission states it is an independent commission “attached” to the Department of Corrections for administrative purposes. See <https://doc.wi.gov/Pages/AboutDOC/ParoleCommission.aspx>.

<sup>70</sup> Wis. Admin. Code, PAC § 1.06 (5).

<sup>71</sup> *Id.* at (13).

<sup>72</sup> Wis. Admin. Code, PAC § 1.07 (1). Note that the DOC Directive states that the Chair makes the decision to approve, deny, or defer Parole Due to Extraordinary Circumstances. See DOC Directive #31, § VI (F).

<sup>73</sup> DOC Directive #31, §§ VI (E) and VI (F).

<sup>74</sup> Wis. Admin. Code, PAC § 1.05 (2) (a); DOC Directive #31, § VI (E).

<sup>75</sup> See the Division of Community Corrections General Information webpage at <https://doc.wi.gov/Pages/AboutDOC/CommunityCorrections/GeneralInformation.aspx>.

<sup>76</sup> Email from Oliver Buchino, Wisconsin Department of Corrections, to FMM (June 25, 2021) (on file with FMM, Office of the General Counsel).