



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.5.A.05	PAGE NUMBER 1 OF 10
		DISTRIBUTION:	Public
		SUBJECT:	Work Release
RELATED STANDARDS:	ACA 5-ACI: 5F-01, 7A-15	EFFECTIVE DATE:	July 01, 2023
		SUPERSESSION:	08/23/2021
DESCRIPTION: Work and Correctional Industry	REVIEW MONTH: June	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) pursuant to SDCL § 24-8-1, to conditionally release select, eligible offenders to participate in Work Release in accordance with rules promulgated by the DOC, pursuant to chapter 1-26. The DOC may change the basis of eligibility or suspend work release at any time as deemed necessary.

II. PURPOSE

The purpose of this policy is to establish the management philosophy, which recognizes the need to provide pre-release services to offenders during the critical months prior to parole supervision and/or community release. Work release services will be delivered in a consistent manner statewide, and with program fidelity.

III. DEFINITIONS

Minimal Non-Direct Supervision:

Periodic checks of an offender. Most activities are independent of supervisor direction and observation.

New System:

Offender sentenced to the South Dakota prison system as a result of an offense committed on or after July 1, 1996.

Old System:

Offender sentenced to the South Dakota prison system as a result of an offense committed prior to July 1, 1996.

Work Release:

A status that allows qualifying and approved offenders access to the community to be competitively employed in the community, pursuant to SDCL § [24-8-1](#).

IV PROCEDURES

1. General Rules and Conduct:

- A. Offenders must agree to follow the procedures contained in this policy and all rules, regulations, and agreements applying to their participation in work release and in accordance with Administrative Rule 17:50:01:28.

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- B. Employers must agree to follow the procedures contained in this policy and all rules, regulations, and agreements that apply to employment of an offender through Work Release.
- C. Offenders are subject to the rules and policies of the employer, the facility where they are housed, and the DOC. In the case the employer or facility rules and regulations governing employee/offender conduct and behavior are less restrictive than the *Work Release Rules and Regulations* (see attachment #2), the DOC rules and policies shall apply (See ARSD 17:50:01:28).
- D. A urine sample or breath test may be required of any offender, at any time, by DOC staff, contract staff, employers, or law enforcement. Offenders are subject to drug testing by a potential employer if such testing is a pre-employment requirement.
- E. Workspaces or items assigned to an offender (includes lockers, equipment, toolboxes, work clothing, vehicles, computers, or other electronic devices) are subject to search at any time by DOC staff, contract staff, or the employer. Search of an offender's person must be conducted by DOC staff or law enforcement.
- F. An offender's access to the community is limited to approved and authorized purposes only.

2. Eligibility:

- A. Offenders applying for work release must be classified as minimum (MN) custody status.
- B. Offenders identified as a sex offender are not eligible for work release.
- C. Offenders with an active felony warrant, pending felony charge, pending sentencing document for additional felony convictions, or a felony hold/detainer, as noted in the Holds / Warrants / Detainers Module in the adult Comprehensive Offender Management System (COMS), are not eligible to participate in Work Release.
 - 1. The work release case manager will request an updated warrant check when an offender's work release application is reviewed. Prior to an offender being placed on Work Release, a warrants search must be conducted if more than thirty (30) days has elapsed since a warrants search was last conducted.
 - 2. All inquiries concerning warrants, charges, holds, or detainers placed upon an offender by another authority will be referred to Central Records staff for clarification and direction. Holds and the status of the hold are noted in the legal section in COMS.
 - 3. Central Records staff will immediately notify the work release case manager or unit staff any time an active felony warrant, pending felony charge, pending sentencing document for additional felony convictions, or felony holds/detainers is received or discovered for an offender on Work Release.
 - 4. An offender may be removed from Work Release because of a felony warrant, felony charge, etc. The decision to remove an offender from the program will be made by the warden. If the offender is removed the offender will be informed of the reason.
- D. Offenders will serve a minimum of thirty (30) consecutive days at a Level I or Level II state correctional facility prior to being eligible for placement on work release. This requirement may be waived on a case-by-case basis by the warden.
- E. The following eligibility criteria apply to offenders considered for Work Release.
 - 1. Offenders who are serving an old system sentence for a non-violent crime are eligible for work release when within eighteen (18) months of their parole eligibility date.
 - 2. Offenders serving a new system sentence for a non-violent crime and who are in overall substantive compliance with their individual program directive (IPD), are eligible for work release when within

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eighteen (18) months of their initial parole date. Offenders assessed as “Non-Compliant” with any element of their IPD are not eligible for work release.

3. Offenders, Old or New system, who are serving a sentence for a violent crime classified 3V, 4V, 5V, or 6V will be reviewed and considered on a case-by-case basis when within twelve (12) months of their initial parole date or parole eligibility date, with final approval being determined by the warden.
 4. Institutional behavior shall be considered when determining eligibility.
 5. Offenders otherwise eligible who waive their parole appearance or request “no action”, are eligible when within twelve (12) months of their flat date.
 6. If an offender has the “no action” clause removed, they are eligible when within twelve (12) months of their next parole date.
- F. Offenders whose current booking is for a suspended execution of sentence (SES) or suspended imposition of sentence (SIS) may be eligible if approved by the warden.
- G. Offenders whose current booking is for a violent crime or accessory to a violent crime classified as 2V or higher, or offenders with a violent offense on their current booking who are past their initial parole date on any transaction, active or inactive, are not eligible for work release
- H. Offenders who are contractual work release or community placement violators are not eligible for work release.
- I. Offenders guilty of a major offense in custody within the prior twelve (12) months are ineligible for Work Release.
- J. Offenders returned to a state correctional facility for a violation of their parole supervision conditions are ineligible for Work Release.
- K. Offenders returned to a state correctional facility for absconding from community supervision are ineligible for Work Release.
- L. Offenders returned to a state correctional facility for a violation of the conditions of extension of confinement are ineligible for work release.
- M. Offenders with a “No Work/Volunteer only” designation noted in COMS are not eligible for work release.

3. Application and Approval Process:

- A. Offenders may apply for work release up to thirty (30) days prior to becoming eligible. Offenders may submit a *Work Release Application* form (see attachment #1) to their case manager, who will review the application for eligibility and determine appropriate action.
- B. While offender participation in Work Release is strictly voluntary, it is encouraged for those eligible as a means of gaining skills, valuable work experience, and financial support as they transition back to the community. The DOC may change the basis of work release eligibility at any time, including the criteria for initial selection or continued participation or suspension of the status for cause.
- C. Unit staff will initiate work release placement proceedings for offenders meeting the established eligibility criteria.
 1. Staff will utilize the *Work Release Routing Checklist* located in COMS (see attachment #10), when an offender is considered for work release.

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- D. In the event staff determine an offender is not eligible for work release, the case manager will notify the offender.
- E. Decisions regarding an offender's participation or continued placement in Work Release shall not be influenced by stereotypes or bias based on race, color, ethnicity, disability, or other protected status.
- F. Offenders are not entitled to work release. No offender has an implied right or expectation to participate in any specific program (See SDCL § 24-2-7). Neither this policy nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any offender.
- G. Offenders who violate the provisions of this policy or the rules of Work Release (See *Work Release Rules and Regulations* (see attachment #2)) are subject to disciplinary action, including and up to, termination from Work Release. The list of rules contained in attachment #2 are not intended as an exhaustive guide for the conduct of offenders participating in work release.
- H. Offenders whose request to participate in work release is denied, or whose participation in work release is terminated by the DOC (not the employer), may initiate the offender grievance process.

4. Placement Proceedings:

- A. The work release case manager/unit staff will initiate work release placement proceedings for approved offenders.
- B. Offenders approved for work release who do not have a social security card, driver license, certified copy of their birth certificate, or who do not have reasonable access to these documents, shall be required to apply for these documents. The work release case manager/unit staff will assist offenders with the respective application processes.
- C. During the initial meeting with the employer, the work release case manager/unit staff will review the *Work Release Rules and Regulations*, *Work Release Information for Employers*, and *Work Release Acknowledgement* form with the employer (see attachment #2, attachment #4, and attachment #11).
 - 1. The offender will be present at the initial meeting. All necessary forms relating to participation in work release must be completed prior to the offender accepting employment.
 - 2. Staff and/or the offender will inquire about any benefits offered by the employer, i.e., health insurance, retirement accounts, labor union, etc.
 - 3. The initial meeting may take place at the place of employment or the offender's housing unit.
- D. A work release offender is not an agent, employee, or involuntary servant of the DOC (See SDCL § 24-8-13).
- E. Offenders who do not have sufficient funds in their account to cover approved start-up expenses associated with employment, may be granted a loan (credit obligation) by the DOC.
 - 1. The work release loan may only be used to pay approved work release expenses (footwear, headwear, safety gear, transportation costs, tools, etc.).
 - a. A loan may be issued each time an offender is placed on work release status, provided all previous loans have been paid in full.
 - 2. The loan must be approved in full by unit staff (no partial loans).

5. Housing:

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- A. Offenders approved for work release will be housed in a Level I or Level II correctional facility, contract facility, or other agency of the state (See SDCL § 24-8-4).
- B. Offenders may be required to pay room and board costs based on a percentage rate established and approved by the Secretary of Corrections, in accordance with SDCL §§ 24-8-11 and 24-11-45 and DOC Policy.
- C. All offenders returning to a correctional facility from work release will be strip searched prior to entering the correctional facility. Offenders must agree to strip searches and any refusal to strip searches are considered a refusal to work and will be terminated from work release.

6. Offender Financial Responsibility:

- A. Offenders on work release are required to apply a portion of their employment earnings toward fixed obligations, consistent with DOC policy.
- B. Offenders employed in the community by public or private organizations in positions normally occupied by private citizens may be compensated at the prevailing wage rate for the position occupied. Offenders receiving compensation reimburse the DOC for a reasonable share of its cost in maintaining them [ACA 5-ACI-7A-15]. The priority of fixed obligation disbursements, not to exceed 50% of each respective deposit, shall be deposited into the offender's account and distributed in the order set forth below, pursuant to SDCL § 24-8-9:
 - 1. Room and board charges.
 - 2. Credit obligations, which include travel expenses and other incidental expenses related to participation in work release.
 - 3. Support of legal dependents.
 - 4. Restitution and fines.
 - 5. The balance will be retained in the offender's institutional frozen subaccount and is payable to the offender upon release to parole, suspended sentence, transfer outside the SD DOC, or discharge.
- C. Unit staff is responsible for maintaining the offender's financial obligations
 - 1. Offenders may join a labor union representing employees at their place of employment ONLY if this is a condition of employment. Dues will be paid from the offender's spend subaccount. Offenders are permitted to only contribute the minimum amount required.
 - 2. Offenders may participate in an employer-provided retirement plan if this is a condition of employment. This requirement will be confirmed in writing through the employer. Offenders are permitted to only contribute the minimum amount required.
 - 3. Work release offenders must obtain health and/or dental (medical) insurance through their employer, if such insurance is offered. The offender is responsible for the insurance premium and copayment for services received.
 - a. Offenders are not allowed to contribute a portion of their earnings to a health savings account (HSA). Offenders may participate in a well-being program offered by the employer whereby participation results in the employer contributing funds to a HSA. The offender's participation with a well-being program does not require the DOC to make any accommodation for the offender to meet the well-being program goal.
 - 4. Offenders may make a charitable donation from their net earnings after all required fees and/or payments have been deducted from their earnings. The donation shall be paid from the offender's spend subaccount.

7. Transportation:

- A. Approved transportation methods for work release offenders are limited to the following:
 - 1. Walking.
 - 2. Bicycle.
 - 3. Public transportation (does not include Uber, Lyft, or any on-demand transportation company).

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4. Transportation provided by a work associate of the offender or an approved person from the community and must be approved by the warden.
 - a. A criminal background check is required for private individuals regularly transporting an offender.
 - b. The person must be eighteen (18) years of age or older, possess a valid driver license, current automobile insurance policy, and be the same gender as the offender.
 - c. The person must complete the *Work Release Transportation Person* form (see attachment #9).
 5. Facility/contract staff may transport offenders.
- B. Offenders must inform unit staff of changes in their work transportation.
- C. Persons who charge offenders for transportation are subject to licensing and sales tax reporting requirements, as set forth by the Department of Revenue and state law.
- D. Transportation methods that are not approved include:
 1. Transport by an immediate family member, another offender, or significant other.
 2. Transport by any person not previously approved by the DOC.
- E. Transportation methods must be pre-approved by the unit staff (work release case manager/unit manager).

8. Operation of a Motor Vehicle:

- A. Offenders may not operate motor vehicles on a public roadway. A public roadway is defined as all streets, alleys, public roads, public thoroughfares, or highways.

9. Staff Responsibilities:

- A. The work release case manager/unit staff must verify extended work hours or changes to the offender's schedule directly with the employer.
 1. Any changes to the offender's previously disclosed and approved work schedule must be immediately reported to staff by the offender. Changes should be verified by staff with the offender's employer.
- B. Staff will ensure the employer is contacted if a work release offender is unable to work due to illness or other approved reason.
- C. The work release case manager/unit staff will initiate regular contact with the employer to measure employer and offender compliance with all requirements of work release. Contact is defined as a job site visit, phone contact, or face-to-face meeting. The unit manager or designee will ensure all employer contacts are documented in COMS. All employers are subject to the following:
 1. A job site visit with unit staff during the offender's second week of employment.
 2. The employer will be contacted by unit staff a minimum of once a month. Monthly contact shall continue for the duration of the offender's employment with the employer.
 3. The work release case manager/unit staff will contact the employer any time staff becomes aware an offender has received a verbal or written reprimand at work, is placed on a work improvement plan, or receives a written or verbal notice that adversely affects the offender's employment status.
 4. The work release case manager/unit staff will contact the employer randomly to verify the offender's presence at the place of employment.
- D. Escape.
 1. Any offender who fails to report or return from planned employment, job search, or vocational training as directed by the DOC shall be considered on escape status (SDCL § 24-8-6). Any offender

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who fails to return to custody following an assignment or temporary leave granted for work release, is considered to have committed second degree escape, which is a class 5 felony (SDCL § 22-11A-2.1) and will not be approved for work release again.

2. If a work release offender cannot be accounted for, or the offender has departed from his/her assigned worksite without authorization, or the offender fails to return at their scheduled return time, DOC staff will immediately contact the warden and unit manager.
 - a. The warden retains discretion to implement any steps he/she deems appropriate to determine the whereabouts of the offender and/or verify the offender has escaped. Steps include, but are not limited to, search of the work site, contact with the employer, contacting friends or family of the offender, and review of phone records/messaging system.
 - b. Escape procedures will not be initiated without authorization by the warden. Reasonable steps will be initiated to attempt to locate the offender and verify the escape.
 - c. Upon decision by the warden to place an offender on escape status, designated DOC staff will immediately report the escape in accordance with DOC Policy.

- E. Case managers should verify the offender's earnings by reviewing payroll deposits into the offender's institutional account at least once per month.
 1. Any lapses in the offender's regular payroll deposits, a pattern of delayed or irregular payroll deposits, or significant changes in the amount deposited must be reported to the unit manager.

- F. The warden will be notified whenever an offender is removed from work release for institutional disciplinary reasons.

- G. The warden may, with or without cause, terminate or suspend the release of any offender for the purpose of participating in Work Release (See SDCL § 24-8-1).

10. Offender Compensation:

- A. Offenders employed in the community by public or private organizations in positions normally occupied by private citizens may be compensated at the prevailing wage rate for the position occupied. Offenders receiving compensation reimburse the DOC for a reasonable share of its cost in maintaining them [ACA 5-ACI-7A-15]. Wages paid to offenders by the employer must meet or exceed federal and state minimum wage requirements.
 1. Offenders may not be used as a cut-rate labor force.
 2. The earnings of work release offenders are not subject to garnishment, attachment, or execution, either through the employer or an agent authorized to hold or transmit such funds (See SDCL § 24-8-10).

- B. Offenders are to be paid for hours worked by the employers. If the offender works more than forty (40) hours, the employer must compensate the offender for any overtime hours worked at a prevailing overtime pay range as designated by the employer.

- C. Offenders must sign the *Work Release Assignment of Check* form (see attachment #3) prior to participating in Work Release.

- D. Offender paychecks will be made payable to the offender and mailed to the DOC Administrative Office (See SDCL § 24-8-8). Offenders will not be hand delivered their paycheck. Payroll payments may also be completed by the employer via direct deposit into the offender's institutional account.
 1. Each pay stub must include the hours worked, gross wage, net wage, and all federal and state withholding taxes.
 - a. Cash tips must be turned in by the offender to staff upon arrival at the facility. Staff will provide the offender a receipt for the amount turned in. The cash will be held in a safe at the institution and sent to Finance and Administration staff to deposit into the offender's spend account.
 2. Offenders may not receive an advance against a paycheck unless authorized by the warden.

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- a. Offenders removed from work release for misconduct will have any work release earnings received by the DOC, subsequent to their removal from work release, frozen until all room and board costs and credit obligations, including work release expense loans, are deducted from the offender's paycheck. The spend and savings account will be bypassed in the distribution formula.
- E. When an offender's parole or release date has been confirmed by central records, and the offender is within approximately one (1) week of being released from DOC custody, unit staff will send the offender's employer a *Check Assignment Cancellation* form (see attachment #6).
1. Employer payroll checks issued prior to and on the actual date of the offender's scheduled release, as noted on the Check Assignment Cancellation form, must be sent to the DOC.
 2. Employer payroll checks issued after the offender's scheduled release date, as noted on the Check Assignment Cancellation form, will be released to the offender.
 3. All offenders releasing to parole supervision with credit obligations at the time of their release, will have the credit obligation written off and the amount transferred to "costs incurred" (see attachment #7 - *Work Release Acknowledgment of Costs Incurred*).
 4. Payments on these costs shall be made directly to the DOC Administration office until the amount is paid in full. The expectation is that the total amount due be repaid within six (6) months of the date of the offender's release, dependent upon the financial plan developed by the parole agent and parolee.

11. Medical Care:

- A. Offenders housed at a DOC institution will access health care through DOC clinical services, unless otherwise referred to an outside provider by DOC clinical services. Clinical services will manage health care for all work release offenders.
1. Offenders are not permitted to independently pursue, seek, or obtain health care outside of DOC clinical services, except in the case of a medical emergency occurring while in the community.
- B. Eligible offenders are required to apply for health insurance coverage and/or dental insurance offered through their employer. Offenders may only apply for insurance coverage for themselves - no family coverage will be allowed while on inmate status. Offenders must provide case managers with a copy of their insurance card and insurance information.
1. Unit staff will email clinical services the name of any offender who is known to have health insurance and must provide clinical services with a copy of offender's provider information (insurance card).
 2. Offenders known to have health insurance through their employer may be referred for necessary medical services to an outside provider (preferred provider of the insurance company), as deemed appropriate by clinical services. All invoices for medical services received will first be filed through the offender's insurance provider. Services not covered by the provider shall be the responsibility of the DOC.
- C. If an offender sustains a work-related injury, state law requires the offender notify their supervisor immediately. The offender must provide written notice to the employer of the injury within three (3) business days of the injury occurring. The employer or workers' compensation insurance carrier must ensure necessary first aid, medical, surgical, and hospital services are provided to the offender. This includes replacement of any eyeglasses, dentures, or hearing aids damaged as a result of the offender's work-related injury.
- D. Work release offenders housed in a contract facility will access medical services for non-work-related accidents/injuries as determined and instructed by facility staff.

12. Employer Responsibility and Eligibility:

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- A. Employer responsibilities are located within the *Work Release Information for Employers* (see attachment #4). The information described is not intended to serve as an exhaustive guide or list of all responsibilities that apply to employers of DOC offenders.
1. Employers must operate a legitimate business (registered with the South Dakota Department of Revenue and assigned a sales tax license (if required)).
 2. Employers must comply with local, state, and federal laws.
 3. Employers may not discriminate against offenders on the basis of race, sex, religion, or national origin, or engage in any discriminatory practices prohibited by law.
 4. Employers shall refrain from speech, gestures, or other conduct that could reasonably be perceived as sexual harassment by an employee. Employers shall have a policy in place prohibiting sexual harassment within the workplace.
 5. Employers must provide workers' compensation insurance. Employers informed of an injury by an employee or otherwise learn an employee has sustained a work-related injury, are responsible for completing the First Report of Injury form and submitting it to their workers' compensation insurance carrier within seven (7) business days.
- B. Offenders participating in Work Release remain under the supervision of the DOC (See ARSD 17:50:01:28). Offender employees must be under the supervision of a non-offender employee of the employer for the duration of time which the offender is working for the employer. The supervisor shall have control over the employee and shall have knowledge of the work being done by the employee.
1. Employers must have at least one (1) employee on duty any time offenders are present at the worksite.
 2. Any employer who knowingly or intentionally allows or assists an offender to depart/escape from their assigned work site, shall be terminated from the Work Release eligibility list of employers and will be reported to local law enforcement.
- C. Offenders may be employed in a "family business" if the criteria outlined in A. and B. of this section is met. Offenders participating in work release may not be self-employed.
1. Employers previously incarcerated or known to have a criminal record are not automatically barred from participating in Work Release.
 2. The warden may grant exceptions on a case-by-case basis.
- D. An offender's employment may be terminated at any time through notice provided by the offender, the employer, or the DOC.
- E. Employers hiring offenders to work on projects that receive federal funding must comply with *Documentation of Compliance with Executive Order 12943* (see attachment #8):
1. Employers requesting offenders to perform any trade, craft, or skill for which a local union, central body, or similar unit organization regularly engages in collective bargaining on behalf of more than twenty percent (20%) of those engaged in the trade, craft, or skill within the county in which the work will be performed, must have consulted with representatives of the corresponding union.
 2. If the unemployment rate of the county in which the work will be performed exceeds four percent (4%), pursuant to the most recent calculations published by the Labor Market Information Center, South Dakota Department of Labor, the employer must demonstrate to the South Dakota DOC that their employment of offenders will not displace employed workers, impair existing contracts for services, and that non-offender applicants of equal skills and abilities for the position(s) are not available.
- F. Offenders on work release may not be employed directly by local, state, or federal government.

13. Reports and Record Keeping:

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- A. The work release/unit staff shall report program information detailed below.
 1. Average daily count and end of month counts by participating facility and department total.
 2. Number of offenders released or removed from work release by month and reason for removal.
 3. Average length of employment by end type.

- B. Copies of all signed agreements concerning an offender's participation in Work Release shall be maintained by facility work release case managers.

- C. Additional requests for information concerning Work Release will be directed to the work release case manager/unit staff

V. RESPONSIBILITY

The director of Prisons and associate director of offender services are responsible for the annual review, and revision as needed, of this policy.

VI. AUTHORITY

SDCL §§ 22-11A-2.1, 24-2-7, 24-8-124-8-4, 24-8-6, 24-8-8, 24-8-9, 24-8-10, 24-8-11, 24-8-13, 24-11-45.
ARSD: 17:50:01:28

VII. HISTORY

June 2023
July 2021
February 2020
December 2019
July 2019
February 2019
December 2017
August 2017
December 2016
December 2015

ATTACHMENTS *(*Indicates document opens externally).*

1. Work Release Application*
2. Work Release Rules and Regulations*
3. Work Release Assignment of Check*
4. Work Release Information for Employers*
5. Work Release Schedule*
6. Work Release Check Assignment Cancellation*
7. Work Release Acknowledgment of Costs Incurred*
8. Documentation of Compliance with Executive Order 12943*
9. Work Release Transportation Person*
10. Work Release Routing Checklist*
11. Work Release Acknowledgment*
12. DOC Policy Implementation / Adjustments

WORK RELEASE APPLICATION

Name _____ Number _____ DOB _____

SS# _____ Old/ New/ Mixed Sentence _____

Offense(s) _____ Sentence _____

County sentenced from: _____

Education (highest grade completed) _____

Initial Parole Eligibility Date _____ Next Parole Date _____

Do you have a driver license? YES NO

Do you have access/availability to your social security card? YES NO

Do you have access/availability to your birth certificate? YES NO

Work History (Last three jobs before incarceration)

Equipment/Training Experience

Do you have employment lined up? YES NO

Name of firm _____

Address _____ Phone _____

I respectfully ask permission of the Department of Corrections to locate and secure employment. I thereby authorize that my records, or any portion thereof, be revealed to prospective employers and assistance groups or individual persons, at the discretion of such persons; and hereby exempt such authorized from any and all liability thereof. I agree to abide by all rules and regulations concerning my assignment to Work Release.

I further understand that completing the Work Release application and meeting work release eligibility requirements does not provide any implied right, guarantee, assurance, or expectation of participation in work release. Placement in work release is discretionary and only after approval from authorized staff.

SDCL 24-2-27 No offender has any implied right or expectation to be housed in any particular facility, participate in any specific program, or receive any specific service, and each offender is subject to transfer from any one facility, program, or service at the discretion of the warden of the penitentiary.

Offender Signature _____ Date _____

Recommend Approval

Recommend Denial

Unit Manager Signature _____ Date _____

Work Release Case Manager _____ Date _____

WORK RELEASE RULES AND REGULATIONS

1. I will obey all Department of Corrections (DOC) rules and regulations.
2. I will obey all federal, state, and local laws, and the ordinances of the community in which I reside and work.
3. I will not possess or use any alcohol, tobacco, vaping, narcotics, synthetic drugs, or illegal substances.
4. I will submit to a urinalysis test, breath analyzer test or any other test approved to determine chemical use when requested by the DOC or my employer.
5. I will not store or conceal contraband (including tips and/or other currency) at my work site or anywhere else in the community.
6. I will not involve myself in banking activities outside of the DOC offender banking system.
7. I will not operate a motor vehicle on any public roadway and will possess a valid driver license when authorized by the DOC and employer to operate a motor vehicle requiring a driver license. A public roadway includes all streets, alleys, public roads, public thoroughfares, or highways.
8. I will report to, and return from, work at pre-determined times using only approved routes. If I am released from my job earlier than scheduled, I will have my employer notify my housing unit and I will return directly to my housing unit. Failure to report to, or return from, work at the pre-determined times may constitute escape.
9. I will utilize transportation means approved by DOC staff.
10. I will not have family or friends visit my work site.
11. I will not bring any unauthorized item(s) to the housing unit.
12. I will follow my approved work schedule and will not alter the schedule. I understand any change to my work schedule must be approved by DOC staff.
13. I will not leave the site of my employment unless I have prior approval from the DOC.
14. I will not use a telephone or mobile device at work unless authorized by my employer as part of my job or in the case of an emergency.
15. I understand accessing the internet for personal use is strictly prohibited.
16. I will not receive my paychecks, ask for an advance against them, or circumvent the payroll process.
17. I will not purchase or possess a cell phone or any mobile device.

I, , have received a copy of the rules and regulations for work release. This is to certify that I have read and fully understand the rules and that my participation in work release may be forfeited for violating the rules and regulations.

Offender Signature: _____ ID#: _____ Date: _____

Staff Signature: _____ Date: _____

WORK RELEASE ASSIGNMENT OF CHECK

I hereby assign and transfer to the Department of Corrections, herein designated as assignee, all wages and other funds that I have earned or may earn from my involvement in Work Release pursuant to SDCL 24-8-8.

I authorize said assignee to take and receive the same, endorse my name heron, and collect the money on such check, and credit me the amount received; and if such check more than pays my indebtedness, the balance will be paid to me upon my parole or discharge. This assignment and authorization to remain in full force and effective until I am released to parole or discharged from the DOC.

Offender Name (Printed Name and Signature)

Date

Offender ID Number

Staff Witness (Printed Name and Signature)

Date

All checks earned are to be made payable to the work release offender and mailed to:

Associate Director of Offender Services
South Dakota Department of Corrections
3200 East Hwy 34
Pierre, SD 57501

Questions: Please call the SD Department of Corrections (605) 773-3478

WORK RELEASE INFORMATION FOR EMPLOYERS

Introduction:

All offenders referred for participation in work release have been carefully screened to identify those who are interested in rehabilitation and receptive to making positive changes. Eligible offenders are minimum custody. Sex offenders are not allowed to participate in work release. Work release offenders agree to abide by the procedures and rules, including when released from custody and during employment with your business. Their access to the community is limited to employment related activities.

Offender employees will be treated with the same consideration and respect shown to regular (non-offender) employees. The offender may participate in the usual rest periods, breaks, and other approved activities related to their employment. Offender employees may remain at the work site for meals or accompany their supervisor during meals and/or breaks. Any deviation in the offender employee's schedule must be approved in advance by the DOC. Offender employees may not attend company social functions such as dinners, parties, picnics, ball games, etc.

Offender Employee Telephone and Computer Usage:

If you allow your employees to use a telephone, cell phone, or mobile device for work-related communication or emergency purposes, offender employees may be permitted to do the same. Offenders may not; however, use a telephone, cell phone, or mobile device for personal reasons, or be in possession of a cell phone or mobile device.

Offender employees may not have access to the internet unless this is a requirement of their job duties. Employers must contact the DOC if an offender employee will have access to the internet. All offender employees are prohibited from accessing computers or the internet for personal reasons. Employers may wish to consider additional computer security measures for offender employees working on computers with internet access.

Visitation:

Offender employees are not allowed to have visitors while at work. If someone shows up at work asking to visit an offender employee, or you observe the offender visiting with non-employees, please ask the individuals to leave and inform them they can visit the offender during scheduled visitation times at the offender's housing unit. Please notify your DOC contact as well.

Offender Employee Transportation and Commute Time:

Ample time, up to one (1) hour, is allowed for offender employees to travel to and from work. The unit director or unit manager may approve additional travel time when the job site is of greater distance requiring additional time to get to or from work. Transportation arrangements must be approved in advance by the DOC. If the employer or an approved work associate of the same gender as the offender, is agreeable to providing transportation to the offender, he or she is required to complete a background check and must be preapproved by the DOC. Individuals must check-in at the housing unit control room when picking up or dropping off an offender. Any deviation from the offender employee's approved transportation schedule must be reported to the DOC. Failure by the offender employee to report for work within the approved time will cause escape procedures to be initiated. Individuals who charge offenders for transportation must be licensed through the Department of Revenue.

Offender Employee Operation of Vehicles:

Offenders must secure advance approval from the DOC before operating any motor vehicle. Offenders may not operate motor vehicles on a public roadway. The definition of a public roadway includes all streets, alleys, public roads, public thoroughfares, or highways.

Offender Employee Absence:

If an offender employee's location cannot be verified one (1) hour after it is noted the offender employee has departed to or from their work site, or the offender is missing from their assigned job site, please immediately contact your DOC contact person.

Termination of Employment:

If an offender employee is to be involuntarily terminated or laid off from employment, please contact your DOC contact person and/or the facility where the offender is housed prior to informing the offender of the termination/lay off. The DOC may elect to dispatch a staff member to the offender's employment site to transport the offender back to the appropriate facility or provide you with additional instructions regarding the transportation and return of the offender.

Offender Employee Compensation and Benefits:

Offender employees must be paid by direct deposit to the DOC, or payroll check mailed to the DOC. At no time will an offender employee receive their paycheck, bonus check, or an advance against their paycheck, unless authorized by the DOC. Employers are responsible for complying with all federal and state statutes pertaining to payroll withholding. The pay stub issued to the offender employee must include the hours worked, gross wage, net wage, FICA, and withholding amounts.

Offender employees must be paid on a regularly scheduled basis, as designated in advance by the employer. Employers shall pay all wages due at least once each calendar month, unless otherwise provided, pursuant to SDCL § 60-11-9.

Holiday or one-time bonuses issued to an offender must be in the form of check mailed to the DOC or direct deposit (not cash). Offender employees cannot receive gift cards, cash, or other gifts.

If you offer health or dental insurance as a benefit to your employees, and the offender employee is eligible to receive the benefit, the cost of this benefit may be deducted from the offender employee's wages. Offenders who are eligible for health or dental insurance are required to participate in the plan. Insurance coverage will be for the offender only. Offenders may not contribute to a health savings account (HSA). If you have questions, please contact your DOC contact person.

Offender employees may participate in a company retirement plan, provided participation is a condition of employment. This must be confirmed in writing to the DOC. The offender employee may only contribute the minimum amount required to participate in the retirement plan.

Offender employees may join a labor union. Offenders who have disbursement obligations cannot have their labor union dues payable through a company payroll deduction. For further information regarding union membership for offender employees, please contact your DOC contact person.

Employers must carry Workman's Compensation Insurance. Employers shall provide proof of insurance.

Offender checks shall be made payable to the offender employee and mailed to the South Dakota Department of Corrections, 3200 East Highway 34, Suite 4, Pierre, SD 57501-5070. A pay stub must accompany the paycheck. **AT NO TIME SHOULD AN OFFENDER EMPLOYEE RECEIVE A PAYCHECK DIRECTLY.**

PLEASE NOTE, THE EARNINGS OF OFFENDER EMPLOYEES ARE NOT SUBJECT TO GARNISHMENT, ATTACHMENT OR EXECUTION, EITHER THROUGH THE EMPLOYER OR AN AGENT AUTHORIZED TO HOLD OR TRANSMIT SUCH FUNDS (See SDCL § 24-8-10).

Work Related Injuries:

Employers are responsible for ensuring offender employees follow all work safety rules and requirements. Offenders have been instructed to immediately report any work-related injury to their employer. Employers are responsible for maintaining Workman's Compensation Insurance and assisting the offender employee in filing any required documentation regarding work related injuries. Any offender employee who requires immediate medical care or emergency medical services should receive these services through the local hospital, clinic, or medical provider in the same manner which these services are provided to regular (non-offender) employees.

Please call or write the Department of Corrections for any questions concerning an offender on work release:
Department of Corrections, 3200 E. Hwy. 34, Pierre, SD 57501 Phone: (605) 773-3478.

Company/Employer Name (print name)

Company/Employer Contact Person (print name)

Employer Signature:

Date

Offender Name (print name)

Offender Number

Offender Signature

Date

Staff Witness (Print and Sign)

Date

WORK RELEASE SCHEDULE

Offender Name: _____ Number: _____

Company Name: _____

Address: _____

Phone Number: _____

Job Site: _____ Contact Person: _____

Transporter: _____

Offender Signature: _____ Date: _____

Employer Signature: _____ Date: _____

Day	Date	Time You Will Leave The Unit	Time You Will Arrive At Work	Time You Will Leave Work	Time You Will Arrive Back @ Unit
MON					
TUE					
WED					
THUR					
FRI					
SAT					
SUN					

The above schedule must be completed by the offender in conjunction with his/her employer. The schedule runs Monday through Sunday and must be submitted to your point of contact as instructed. Normal working hours for work release offenders will be between 5:00 a.m. and 11:30 p.m. Any changes to this schedule must be approved by unit staff.

WORK RELEASE CHECK ASSIGNMENT CANCELLATION

To: Employer _____

Address _____

City _____

State & Zip _____

This notice is to inform you that _____ will discontinue his/her
(work release offender's name)
involvement with Work Release on _____.
(date)

This is an official notice of cancellation of check assignment for the above-named offender. Please discontinue sending his/her paycheck to the Department of Corrections and remove the Department of Corrections as the designated assignee of the above-named offender's earned wages. Should the above-named offender remain employed with your business after the date listed above, their name may appear on their paycheck and their paycheck may be issued directly to them unless otherwise directed by DOC staff. Thank you for your cooperation and participation with Work Release.

Reason for termination from Work Release:

- _____ Discharge
- _____ Parole
- _____ Disciplinary/misconduct
- _____ Release to Extension of Confinement

Sincerely,

Name _____

Position _____

South Dakota Department of Corrections

Address _____

City _____

State & Zip _____

WORK RELEASE ACKNOWLEDGEMENT OF COSTS INCURRED

Offender (name): _____ (ID number): _____

is scheduled to release: _____ . It is projected

he/she will owe \$ _____ to the Department of Corrections for costs associated

Incarceration.

I, (offender name) _____ acknowledge I

owe the Department of Corrections \$ _____ for costs associated with my incarceration.

By my signature at the bottom of this form, I agree to repay the SD Department of Corrections the full amount owed.

Offender (printed name and signature)

Date

Forwarding Address

Telephone Number

Staff Witness (printed name and signature)

Date

COPY: To parole agent (if offender is releasing to parole supervision)

DOCUMENTATION OF COMPLIANCE WITH EXECUTIVE ORDER 12943

Employer:

Is there a local union or similar unit organization which regularly engages in collective bargaining on behalf of more than 20 percent of those engaged in the work the offender will be doing within the county in which the work will be performed?

Yes No

If Yes, have representative of the corresponding union been consulted?

Yes No

Department of Corrections:

Based on the SD Department of Labor "SD Labor Bulletin", what is the unemployment rate of the county in which the work will actually be performed?

If the unemployment rate of the county in which the work will be actually performed is more than 4%:

Employer:

Does the employment of this offender worker displace employed workers?

Yes No

Does the employment of this offender work impair existing contracts for services?

Yes No

Are there non-offender applicants of equal skills and abilities for the position available?

Yes No

Employer Signature

Date

DOC Staff Signature

Date

WORK RELEASE TRANSPORTATION PERSON

DATE: _____

OFFENDER NAME: _____

FACILITY: _____

JOB SITE #: _____

NAME OF COMPANY: _____

ADDRESS: _____

CITY/STATE: _____

TELEPHONE: _____

TRANSPORTATION PERSON'S NAME: _____

ADDRESS: _____

CITY/STATE: _____

TELEPHONE: _____

DATE OF BIRTH: _____

SOCIAL SECURITY #: _____

DRIVER LICENSE NUMBER/STATE: _____

NAME OF AUTO INSURANCE CARRIER**: _____

BACKGROUND CHECK COMPLETE:	Yes	No	Approved	Yes	No
DRIVER LICENSE VERIFIED:	Yes	No			
INSURANCE COVERAGE VERIFIED:	Yes	No			

DATE: _____ STAFF: _____

UNIT STAFF MEMBER/WORK RELEASE COORDINATOR: _____

***NOTE** A SEPARATE FORM IS REQUIRED FOR EACH PERSON WHO WILL BE TRANSPORTING AN OFFENDER.

TRANSPORTER AGREEMENT

I, _____ agree to transport offender _____ to and from their job site. I certify I have a valid driver license. I agree to transport this offender directly to their job site, without any unauthorized stops. I understand this offender is on work release and as such, their access to the community is strictly for work related purposes. It is my responsibility to come into the unit and identify myself when I pick up or drop off the offender. I will not provide cash, alcohol, tobacco products, cell phones, or other unauthorized materials to the offender.

I further understand I am required to comply with applicable state sales tax laws if I require payment for transporting this offender. I understand if I have questions concerning my obligations, I may contact the South Dakota Department of Revenue at 1-800-829-9188.

RELEASE:

My signature on this form authorizes the South Dakota Department of Corrections, or its representative(s) to obtain and review my criminal background. I certify the information given is true, correct, and complete to the best of my knowledge and belief. I further understand that if I do not agree to the terms of this agreement that I will not be considered or approved to transport a work release offender(s).

I understand this agreement may be cancelled at any time by notification to either party.

/

Transporter's Name and Signature

Date

Work Release Routing Checklist

Offender Name: _____ **Offender ID:** _____

Felony Counts: _____ **Inmate Paroling to:** _____

1st Choice: _____ **2nd Choice:** _____ **3rd Choice:** _____

Offense Criteria:

_____ Current offense(s) non-violent or 3V, 4V, 5V, 6V (No Violent 1V or 2V to include accessory)

_____ Refer to Warden for approval if violent offense

_____ Minimum Custody (cannot be exceptional or minimum restricted)

_____ 30 days at a Level I or II facility

_____ Date: _____

Old system parole:

_____ Non-violent offense, 18 months from parole eligibility

New System Parole:

_____ Non-violent offense, within 18 months of parole date or next parole eligibility

_____ Initial parole date: _____

_____ Violent offense (old and new system), within 12 months of parole date or next parole eligibility

_____ Initial parole date: _____

_____ Inmates with a violent offense on their current booking and are past an initial parole date on any transaction, active or inactive, are not eligible.

_____ Not returned to state custody due to violation(s) on parole/community placement/EC

_____ Violation Description: _____

_____ No designation of "no work, volunteer only"

_____ Compliant with IPD

_____ No EDC Alert

_____ No major write ups

_____ PSI Final Check

_____ No active Felony Warrants / Holds / Pending sentencing documents on file / Holds / Detainers

_____ SS Card / Birth Certificate on file at Central Records

_____ No violent offenses or violent disciplinary in the last 10 years (St. Francis House)

Work Release Routing Checklist:

_____ Wants and Warrants check completed

_____ Routing Checklist Generated, sent to

_____ Mental Health/Chemical Dependency

_____ Education

_____ Clinical Services

_____ OFR updated

WORK RELEASE ACKNOWLEDGEMENT

1. I will cooperate with DOC and contract facility/jail staff and be guided by their advice in all matters affecting my involvement with Work Release.
2. I understand my person, possessions, living quarters, and work site are subject to search at any time, and I will be held responsible for any contraband found on my person, in my possessions, in my living quarters, and at my work site.
3. I will comply with any specific order, special limitation, and/or condition imposed on me by Work Release.
4. I will secure advanced approval from DOC staff or authorized contract facility/jail staff, if, at any time, I wish to:
 - A. Operate a motorized vehicle.
 - B. Change employment or make changes in my work schedule.
 - C. Modify an approved work schedule.
 - D. Access the internet.
5. I understand that I am responsible for contacting my employer immediately regarding any work-related injuries.
6. I understand and agree that if I am unable to obtain employment during the specified job search period or I am terminated from my employment due to my actions or my job performance, I may be removed from Work Release.
7. I understand and agree that if I am removed from Work Release, any work release earnings received subsequent to my removal will be retained in my account and paid to me upon parole or discharge. I further understand and agree that any debts incurred by me due to my removal from Work Release, any outstanding work release expenses, and current disbursement obligations will be deducted from my work release earnings prior to being retained in my account.
8. I understand and agree to call my assigned housing unit if an emergency necessitates a change from my approved activities.
9. I understand I am to follow my approved work schedule and that any change to my work schedule must be approved by my unit staff or contact/jail staff.
10. I understand if I fail to report to work or report back to my housing unit at pre-determined times or depart from my work site without authorization, I may be charged with felony escape
11. I understand and agree to wear appropriate and customary clothing to my job.
12. I understand all the following deductions may be made from my earnings:
 - A. Financial obligations and disbursements as required by law or as ordered by the court.
 - B. Health insurance, if offered by the employer.
 - C. Retirement provided the retirement plan is a condition of employment and confirmed in writing by the employer. I understand that only the minimum amount required under the retirement plan may be deducted from my paycheck and contributed to the plan.
 - D. Union dues if required as a condition of employment.
 - E. State and Federal taxes.
13. I understand if I am unwilling to make payments towards my financial obligations, I will be removed from Work Release.
14. I understand I may be required to pay for housing and meal costs (room and board) at the rate established by the DOC or the contract/jail facility.

- 15. I agree to immediately notify DOC staff or contract/jail staff of any adverse contact I have with law enforcement while on work release, (i.e., traffic offense, questioning by law enforcement regarding the commission of a crime, or any investigation being conducted by law enforcement).
- 16. I will report to DOC staff or contact/jail staff any adverse work-related reports I receive from my employer, to include, but not limited to, verbal reprimands, written reprimands, work improvement plans, or any other notice, either verbal or written, that adversely impacts my employment.
- 17. I will comply with policy and procedure regarding my health care while on work release, to include scheduled appointments, insurance, payment for services, and compliance with outside referrals.

Offender Signature: _____ Date: _____

Offender Number: _____

Staff Signature: _____ Date: _____