

**WISCONSIN DEPARTMENT OF CORRECTIONS**

**PROPOSED RULE MAKING ORDER  
CR 13-038**

**INTRODUCTORY CLAUSE**

The department of corrections proposes an order to repeal and recreate chapter DOC 350, relating to jails.

**TEXT OF RULE**

SECTION 1. DOC 350 is repealed and recreated to read:

**Chapter DOC 350**

**JAILS**

- DOC 350.01 Purpose and authority.
- DOC 350.02 Applicability.
- DOC 350.03 Definitions.
- DOC 350.04 Construction plans.
- DOC 350.05 Physical environment for new or substantially remodeled jails.
- DOC 350.06 Physical environment for new or substantially remodeled jails on or after March 1, 1990 to [effective date of new rule].
- DOC 350.07 Physical environment of jails constructed before March 1, 1990.
- DOC 350.08 Variance.
- DOC 350.09 Policy and procedure manual.
- DOC 350.10 Records and reporting.
- DOC 350.11 Food service.
- DOC 350.12 Sanitation and hygiene.
- DOC 350.13 Inmate health screening.
- DOC 350.14 Inmate health care.
- DOC 350.15 Health care policy.
- DOC 350.16 Control and administration of medications.
- DOC 350.17 Suicide prevention.
- DOC 350.18 Security.
- DOC 350.19 Fire safety.
- DOC 350.20 Double celling.
- DOC 350.21 Inmate classification.
- DOC 350.22 Use of force.
- DOC 350.23 Use of restraints.
- DOC 350.24 Discipline.
- DOC 350.25 Administrative confinement.

- DOC 350.26 Grievance process.
- DOC 350.27 Legal access.
- DOC 350.28 Indigence.
- DOC 350.29 Mail.
- DOC 350.30 Visitation.
- DOC 350.31 Programs and services.
- DOC 350.32 Religious programming.
- DOC 350.33 Recreation.
- DOC 350.34 Publications.
- DOC 350.35 Canteen.

**DOC 350.01 Purpose and authority.** The purpose of this chapter is to establish minimum standards for the design, construction, and operation of jails and houses of correction. The rules are promulgated under the authority of ss. 227.11 (2) (a), 301.03 (5), 301.36, 301.37, and 302.365, Stats.

**DOC 350.02 Applicability.** This chapter applies to all jails established by counties under s. 302.30, Stats., all state-local shared correctional facilities established under s. 302.45, Stats., and all county houses of correction established under s. 303.16, Stats.

**DOC 350.03 Definitions.** In this chapter:

- (1) “Administer” has the meaning given in s. 450.01 (1), Stats.
- (2) “Cell” means a secure room designed and used as a sleeping room for one person confined in a jail, except that, when the jail meets the conditions for double celling under s. DOC 350.20, “cell” means a secure room designed as a sleeping room and used for sleeping one or two persons confined in a jail.
- (3) “Confinement” means placement in a cell of a person who has been arrested and is awaiting bail or bond posting, arraignment or another legal proceeding listed under ss. 938.208 and 938.209, Stats., for juveniles, or s. 302.31, Stats., for adults.
- (4) “Contraband” means any item not allowed in a jail by the sheriff or by this chapter.
- (5) “Court holding room” means a secure room outside the secure perimeter of the jail adjacent to or near courtrooms.
- (6) “Dayroom” means an area in a jail that is readily accessible to inmates, contiguous to a group of cells or dormitory, and is designed and used for leisure or recreation activities but not for sleeping purposes.
- (7) “Deliver” or “delivery” has the meaning given in s. 450.01 (5), Stats.
- (8) “Department” means the Wisconsin department of corrections.
- (9) “Detention strength” means strong enough to resist damage an inmate could inflict with tools or equipment that would normally be in his or her possession.
- (10) “Dormitory” means a room used for sleeping purposes and designed for occupancy by two or more persons.
- (11) “Exercise space” means a room or an area in a jail that is designated for inmate exercise and recreation.

(12) "Health screening form" means the form used to record information about medical, mental health and dental conditions; physical and developmental disabilities; alcohol or other drug abuse problems; and suicide risk.

(13) "Holding room" means a secure room in the jail designed for holding more than one inmate of the same sex and classification for the purpose of processing admissions and releases.

(14) "Huber law inmate" means an inmate who has been granted the privilege of leaving a jail under s. 303.08 or 973.09 (4), Stats.

(15) "Jail" means a place of confinement operated by a sheriff for the purposes listed under s. 302.31, Stats. "Jail" includes a jail as defined under s. 302.30, Stats., a state-local shared correctional facility as defined under s. 302.45, Stats., and a county house of correction as defined under s. 303.16, Stats.

(16) "Multipurpose room" means a room or an area in a jail that is designated for programming or congregate assembly other than visiting.

(17) "Natural lighting" means direct or indirect illumination as provided by the sun or daylight.

(18) "Privileged mail" means any written materials between an inmate and an attorney.

(19) "Receiving cell" means a secure room designed and used as a sleeping room for one person confined in a jail to segregate the person for admission, release or disciplinary purposes.

(20) "Secretary" means the secretary of the department.

(21) "Secure perimeter of the jail" means the secure outer boundaries of a jail.

(22) "Security classification" means a grouping of inmates based on the level of supervision required, the nature of the offense for which the inmate was arrested or of which the inmate was convicted, or other criteria set by the sheriff.

(23) "Sheriff" means the person in charge of jail operations or a designee.

(24) "Unencumbered space" means usable floor space that is not encumbered by furnishings or fixtures.

**DOC 350.04 Construction plans.** (1) Before design development begins, a county that intends to build or remodel a jail shall file a letter of intent with the department's regional detention facilities specialist.

(2) Copies of original and updated drawings of the area within the secure perimeter of the jail shall be submitted to the department's regional detention facilities specialist at the same time the drawings are submitted to the county.

(3) All sites, plans and specifications for construction or remodeling of a jail shall comply with the Wisconsin commercial building code.

(4) Prior to publication of bid documents, one complete set of plans and specifications shall be forwarded to the department for review and approval.

(5) Any proposed changes to the approved plans must be submitted to the department for review and approval.

**DOC 350.05 Physical environment for new or substantially remodeled jails.**

(1) **APPLICABILITY.** This section applies only to jails that are constructed or substantially remodeled on or after the effective date of this section .... [LRB inserts date].

(2) **FURNITURE AND FIXTURES.** Furniture and fixtures used in a jail shall be of detention strength materials and manufactured, sold and installed by firms that specialize in detention equipment or

ordered from a firm that will follow the specifications for detention strength equipment in this chapter, including all of the following:

- (a) Benches.
- (b) Bolts.
- (c) Bunks.
- (d) Ceilings.
- (e) Clothing hooks.
- (f) Contraband proof thresholds.
- (g) Desks.
- (h) Door pulls.
- (i) Drinking fountains.
- (j) Floor drains.
- (k) Food passes.
- (L) Glazing.
- (m) Grills over vents and windows.
- (n) Hinges.
- (o) Key cabinets.
- (p) Lights.
- (q) Locking mechanism housings.
- (r) Mirrors.
- (s) Observation ports.
- (t) Screws.
- (u) Seats.
- (v) Security doors.
- (w) Security locks.
- (x) Security screens.
- (y) Shelves.
- (z) Showers.
- (za) Skylights.
- (zb) Speaking ports.
- (zc) Sprinkler heads.
- (zd) Tables.
- (ze) Toilets.
- (zf) Urinals.
- (zg) Walls.
- (zh) Washbasins.
- (zi) Windows.
- (zj) Window and door frames.

**(3) CELLS.** (a) This subsection applies to all cells except receiving cells and holding rooms. Requirements for receiving cells are specified under sub. (5), and requirements for holding rooms are specified under sub. (7).

(b) Except if s. DOC 350.20 applies, each cell shall be designed and used only for single occupancy.

(c) Except if s. DOC 350.20 applies, each cell shall have a floor area of at least 35 square feet of unencumbered space. The distance between the floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.

(d) Double cells shall have a floor area of at least 25 square feet of unencumbered space per occupant. The distance between the floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.

(e) There shall be at least one shower or bathtub in each area where cells are located. There shall be hot and cold running water in the showers and bathtubs, and the hot water shall maintain a minimum temperature of 110°F to the mixer. In this paragraph, "mixer" means the part of the plumbing system that combines hot and cold water.

(f) All dayrooms, dormitories and cellblocks shall provide the occupants with access to natural light.

(g) Each cell shall have all of the following:

1. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength for each inmate.

2. A detention strength, metal, institution-type washbasin and toilet. The washbasin and toilet may be combined in one unit. The washbasin shall have hot and cold running water.

3. Detention strength light fixtures that shall provide at least 10 foot-candles of illumination, 30 inches above the floor. Lights shall have a dimming capability or there shall be a night light to allow for comfortable sleeping.

4. A detention strength, metal, institution-type mirror that is not removable.

**(4) DAYROOMS.** (a) All dormitories and cells, except receiving cells and holding rooms, shall be provided with one or more dayrooms in their immediate vicinity that are accessible to inmates.

(b) Dayrooms shall provide a minimum of 35 square feet per inmate.

(c) Each dayroom shall have detention strength tables and seating for the number of occupants that have access to the dayroom.

(d) Illumination in dayrooms may not be less than 10 foot-candles, 30 inches above the floor.

**(5) RECEIVING CELLS.** (a) All receiving cells shall be designed and used for single occupancy.

(b) Each receiving cell shall have a floor area of at least 35 square feet of unencumbered space. The distance between the floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.

(c) Each receiving cell shall have all of the following:

1. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength.

2. A detention strength, metal, institution-type washbasin and toilet. The washbasin and toilet may be combined in one unit. The washbasin shall have hot and cold running water.

3. Detention strength light fixtures that shall provide at least 10 foot-candles of illumination, 30 inches above the floor. Lights shall have a dimming capability or there shall be a night light to allow for comfortable sleeping.

**(6) DORMITORIES.** (a) Inmates may be housed in dormitories if the inmates are of the same security classification.

(b) Each dormitory shall have a minimum floor area of 35 square feet of unencumbered space per occupant for sleeping purposes. In addition, each shall have a minimum floor area of 35 square feet for the purpose of a dayroom. Each dayroom shall have detention strength tables and seating for the number of occupants. Each dormitory shall have a floor to ceiling height of not less than 8 feet.

(c) A detention strength bed shall be provided for each occupant of a dormitory.

(d) An area for personal property shall be provided for each occupant of a dormitory.

(e) Dormitories shall be provided with illumination of at least 10 foot-candles, 30 inches above the floor, and with the ability to reduce lighting during sleeping hours to a level that is light enough for security checks.

(f) Each dormitory shall provide adequate showers or bathtubs, toilets and washbasins for the occupants. Each dormitory shall have hot and cold running water, and the hot water shall maintain a minimum temperature of 110° F to the mixer. In this paragraph, "mixer" means the part of the plumbing system that combines hot and cold water.

(g) Dormitories shall be constructed of materials of detention strength and shall be provided with detention strength equipment.

**(7) HOLDING ROOMS.** (a) Holding rooms are intended to be used for admission, release and investigative purposes. A holding room may not be used as a cell, dormitory or receiving cell. Holding rooms shall be located in an area that allows continuous staff observation or electronic video surveillance of inmates.

(b) Each holding room shall contain detention strength, rigidly constructed seats or benches bracketed to the wall or bolted to the floor or seats or benches of masonry construction of a similar strength.

(c) A detention strength, institution-type washbasin with hot and cold running water and toilet shall be provided.

(d) A holding room shall have a minimum floor area of at least 50 square feet with an additional 10 square feet for each occupant above five.

**(8) COURT HOLDING ROOMS.** (a) Court holding rooms shall only be used for courtroom purposes. A court holding room may not be used as a cell, dormitory or receiving cell. Supervision is subject to the requirements of s. DOC 350.18 and ss. 302.41 and 302.42, Stats.

(b) Court holding rooms may be designed and used for multiple occupancy for inmates who are properly segregated under ss. 938.209 and 302.36, Stats.

(c) Each court holding room shall contain detention strength, rigidly constructed seats or benches bracketed to the wall or bolted to the floor or seats or benches of masonry construction of a similar strength.

(d) A detention strength, institution-type washbasin and toilet shall be provided.

(e) A court holding room shall have a floor area of at least 50 square feet with an additional 10 square feet for each occupant above five.

**(9) MULTIPURPOSE ROOMS.** Each jail shall provide multipurpose rooms for programming, education, or congregate assembly other than visiting. There shall be a minimum of one multipurpose room per every 100 inmates based on approved rated capacity. Each multipurpose room shall have a minimum floor area of 300 square feet.

**(10) EXERCISE SPACE.** Each jail shall provide dedicated exercise and recreation space. The space shall have a minimum of 300 square feet.

**(11) EXTERIOR WINDOWS.** (a) This subsection applies to all windows that lead to the exterior of the jail or to an area outside the secure perimeter of the jail.

(b) All exterior windows shall be translucent or shall be located to prevent persons outside the secure perimeter of the jail from observing inmates within the jail.

(c) Each exterior window that has an opening in any direction in excess of 5 ½ inches shall be covered with security steel grills to prevent escape.

(d) If an exterior window is accessible to inmates and opens, the window shall be mounted in a detention strength frame and shall be covered on the inside with a 1,600 pound per lineal inch tensile strength security screen of .047 mil. wire diameter to prevent the passage of contraband.

(e) If an exterior window is not accessible to inmates and opens, the window's security screen need not meet the requirements of par. (d), but the screen shall have a tensile strength of at least 800 pounds per lineal inch and shall be made of wire of at least .028 mil. diameter.

(f) If an exterior window does not open, whether or not it is accessible to inmates, the security screen required under par. (d) or (e) may be omitted if the window is mounted in a detention strength frame and the pane is security glass of sufficient strength to resist breakage and prevent the passage of contraband.

**(12) EXTERIOR APPROACHES.** The exterior of the jail and approaches to the jail shall be well lighted at night to permit observation of persons approaching the building.

**(13) WALLS.** (a) Walls on the exterior of the jail shall be constructed of reinforced concrete or fully grouted concrete block at least 8 inches thick, or the walls shall be constructed of materials of similar strength that provide equivalent security.

(b) Walls in the interior of the jail shall be constructed of reinforced concrete or fully grouted concrete block at least 6 inches thick, or the walls shall be constructed of materials of similar strength that provide equivalent security.

(c) Interior walls between cells and housing units are to be constructed tight to the structure.

**(14) CEILINGS.** Ceilings in areas accessible to inmates shall be constructed of high impact detention strength materials that are escape resistant, resist damage, and prevent passage of contraband.

**(15) DOORS AND LOCKS.** (a) Every door exit that leads to the exterior of the jail or to an area outside the secure perimeter of the jail shall have detention strength framing and a threshold designed to prevent the introduction of contraband.

(b) Every door entering into the secure perimeter of the jail shall be of detention strength. Each of these doors shall have a vision panel or other means of observation to permit identification of individuals before they enter an area within the secure perimeter of the jail and to allow observation of an area before entering it. If the vision panel has an opening in any direction in excess of 5 ½ inches, the opening shall be covered with detention strength steel grills to prevent escape.

(c) In multiple cell sections, other than receiving cell sections, the mechanical means of emergency release may not be operated by key locks in the door or cells. The mechanical means of emergency release shall be operated by remote control located in an area not accessible to inmates.

(d) For receiving cells, the mechanical means of emergency release may be operated by key locks in the doors of cells.

**(16) ACCESS TO CONTROLS.** Inmates may not have access to plumbing, wiring, vents, thermostats, switches or controls, except that inmates in dormitories may have limited access to operate lights, radios, and televisions.

**DOC 350.06 Physical environment for new or substantially remodeled jails on or after March 1, 1990 to the effective date of this section .... [LRB inserts date].**

**(1) APPLICABILITY.** This section applies only to jails that are constructed or substantially remodeled on or after March 1, 1990 to [effective date of new rule].

**(2) FURNITURE AND FIXTURES.** Furniture and fixtures used in a jail shall be of detention strength materials and manufactured, sold and installed by firms that specialize in detention equipment or ordered from a firm that will follow the specifications for detention strength equipment in this chapter, including all of the following:

- (a) Benches.
- (b) Bolts.
- (c) Bunks.
- (d) Ceilings.
- (e) Clothing hooks.
- (f) Contraband proof thresholds.
- (g) Desks.
- (h) Door pulls.
- (i) Drinking fountains.
- (j) Floor drains.
- (k) Food passes.
- (L) Glazing.
- (m) Grills over vents and windows.
- (n) Hinges.
- (o) Key cabinets.
- (p) Lights.
- (q) Locking mechanism housings.
- (r) Mirrors.
- (s) Observations ports.
- (t) Screws.
- (u) Seats.
- (v) Security doors.
- (w) Security locks.
- (x) Security screens.
- (y) Shelves.
- (z) Showers.
- (za) Speaking ports.
- (zb) Tables.
- (zc) Toilets.
- (zd) Urinals.
- (ze) Walls.
- (zf) Washbasins.
- (zg) Windows.
- (zh) Window and door frames.

**(3) CELLS.** (a) This subsection applies to all cells except receiving cells and holding rooms. Requirements for receiving cells are specified under sub. (5), and requirements for holding rooms are specified under sub. (7).

(b) Except if s. DOC 350.20 applies, each cell shall be designed and used for single occupancy only.

(c) Except if s. DOC 350.20 applies, each cell shall have a floor area of at least 54 square feet. The distance between the floor and ceiling may not be less than 8 feet, and the distance between opposite walls may not be less than 6 feet.

(d) A cell that is to be used for double occupancy shall have a floor area of at least 70 square feet.

(e) There shall be at least one shower or bathtub in each area where cells are located. There shall be hot and cold running water in the showers and bathtubs, and the hot water shall maintain



a minimum temperature of 110°F to the mixer. In this paragraph, "mixer" means the part of the plumbing system which combines hot and cold water.

(f) Each cell shall have all of the following:

1. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength for each inmate.

2. A detention strength, metal, institution-type washbasin and toilet. The washbasin and toilet may be combined in one unit. The washbasin shall have hot and cold running water.

3. Detention strength light fixtures that shall provide at least 10 foot-candles of illumination, 30 inches above the floor. Lights shall have a dimming capability or there shall be a night light to allow for comfortable sleeping.

4. A detention strength, metal, institution-type mirror that is not removable.

**(4) DAYROOMS.** (a) All dormitories and cells, except receiving cells and holding rooms, shall be provided with one or more dayrooms in their immediate vicinity that are accessible to inmates. If the dayroom is an area within a dormitory, the requirements under sub. (6) (b) apply.

(b) Each dayroom shall have detention strength tables and seating for the number of occupants of the dormitory or cells that have access to the dayroom.

(c) Illumination in dayrooms may not be less than 10 foot-candles, 30 inches above the floor.

**(5) RECEIVING CELLS.** (a) All receiving cells shall be designed and used for single occupancy.

(b) Each receiving cell shall have a floor area of at least 54 square feet. The distance between the floor and ceiling may not be less than 8 feet and the distance between opposite walls may not be less than 6 feet.

(c) Each receiving cell shall have all of the following:

1. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength.

2. A detention strength, metal, institution-type washbasin and toilet. The washbasin and toilet may be combined in one unit. The washbasin shall have hot and cold running water.

3. Detention strength light fixtures that shall provide at least 10 foot-candles of illumination, 30 inches above the floor. Lights shall have a dimming capability or there shall be a night light to allow for comfortable sleeping.

**(6) DORMITORIES.** (a) Inmates may be housed in dormitories if the inmates are of the same security classification and properly segregated as required under s. 302.36, Stats.

(b) Each dormitory shall have a minimum floor area of 35 square feet per occupant, excluding the toilet and shower area. Each dormitory shall have a floor to ceiling height of not less than 8 feet.

(c) A detention strength bed shall be provided for each occupant of a dormitory.

(d) An area for personal property shall be provided for each occupant of a dormitory.

(e) Dormitories shall be provided with illumination of at least 10 foot-candles, 30 inches above the floor and with the ability to reduce lighting during sleeping hours to a level which is enough for security checks.

(f) Each dormitory shall provide adequate showers or bathtubs, toilets and washbasins for the occupants. Each dormitory shall have hot and cold running water, and the hot water shall maintain a minimum temperature of 110° F to the mixer. In this paragraph, "mixer" means the part of the plumbing system which combines hot and cold water.

(g) Dormitories shall be constructed of materials of detention strength and shall be provided with detention strength equipment.

**(7) HOLDING ROOMS.** (a) Holding rooms are intended to be used for admission, release and investigative purposes. A holding room may not be used as a cell, dormitory or receiving cell. Holding rooms shall be located in an area that allows continuous staff observation or electronic video surveillance of inmates.

(b) Each holding room shall contain detention strength, rigidly constructed seats or benches bracketed to the wall or bolted to the floor or seats or benches of masonry construction of a similar strength.

(c) A detention strength, institution-type washbasin and toilet shall be provided.

(d) A holding room shall have a floor area of at least 50 square feet with an additional 10 square feet for each occupant above five.

**(8) MULTIPURPOSE ROOM.** Each jail shall provide a multipurpose room for recreation, physical exercise and congregate assembly other than visiting. The multipurpose room shall have a minimum floor area of 300 square feet.

**(9) EXTERIOR WINDOWS.** (a) This subsection applies to all windows that lead to the exterior of the jail or to an area outside the secure perimeter of the jail.

(b) All exterior windows shall be translucent or shall be located to prevent persons outside the secure perimeter of the jail from observing inmates within the jail.

(c) Each exterior window that has an opening in any direction in excess of 5 ½ inches shall be covered with security steel grills to prevent escape.

(d) If an exterior window is accessible to inmates and opens, the window shall be mounted in a detention strength frame and shall be covered on the inside with a 1,600 pound per lineal inch tensile strength security screen of .047 mil. wire diameter to prevent the passage of contraband.

(e) If an exterior window is not accessible to inmates and opens, the window's security screen need not meet the requirements of par. (d), but the screen shall have a tensile strength of at least 800 pounds per lineal inch and shall be made of wire of at least .028 mil. diameter.

(f) If an exterior window does not open, whether or not it is accessible to inmates, the security screen required under par. (d) or (e) may be omitted if the window is mounted in a detention strength frame and the pane is security glass of sufficient strength to resist breakage and prevent the passage of contraband.

**(10) EXTERIOR APPROACHES.** The exterior of the jail and approaches to the jail shall be well lighted at night to permit observation of persons approaching the building.

**(11) WALLS.** (a) Walls on the exterior of the jail shall be constructed of reinforced concrete or fully grouted concrete block at least 8 inches thick, or the walls shall be constructed of materials of similar strength which provide equivalent security.

(b) Walls in the interior of the jail shall be constructed of reinforced concrete or fully grouted concrete block at least 6 inches thick, or the walls shall be constructed of materials of similar strength which provide equivalent security.

**(12) CEILINGS.** Ceilings in areas accessible to inmates shall be constructed of pre-cast concrete or flat steel of at least 3/16 inch thickness, or ceilings shall be constructed of materials of similar strength which provide equivalent security.

**(13) DOORS AND LOCKS.** (a) Every door that leads to the exterior of the jail or to an area outside the secure perimeter of the jail shall have a threshold designed to prevent the introduction of contraband.

(b) Every door entering into the secure perimeter of the jail shall be of detention strength. Each of these doors shall have a vision panel or other means of observation to permit identification of individuals before they enter an area within the secure perimeter of the jail and

to allow observation of an area before entering it. If the vision panel has an opening in any direction in excess of 5 ½ inches, the opening shall be covered with detention strength steel grills to prevent escape.

(c) In multiple cell sections, other than receiving cell sections, the mechanical means of emergency release may not be operated by key locks in the door or cells. The mechanical means of emergency release shall be operated by remote control located in an area not accessible to inmates.

(d) For receiving cells, the mechanical means of emergency release may be operated by key locks in the doors of cells.

**(14) ACCESS TO CONTROLS.** Inmates may not have access to plumbing, wiring, vents, thermostats, switches or controls, except that inmates in dormitories may have limited control over lights, heating, radios and televisions.

### **DOC 350.07 Physical environment of jails constructed before March 1, 1990.**

(1) This section applies to jails that were constructed before March 1, 1990 and have not been substantially remodeled on or after March 1, 1990.

(2) Except if s. DOC 350.20 applies, each cell shall be designed and used for single occupancy only.

(3) Except if s. DOC 350.20 applies, each cell shall be at least 5 ½ feet wide and 7 ½ feet long.

(4) A cell that is to be used for double occupancy shall have a floor area of at least 70 square feet.

(5) Each cell shall contain a rigidly constructed metal bunk with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength for each inmate, a prison-type wash bowl and a prison-type toilet.

(6) There shall be adequate showers or bathtubs for the inmates. The supply of hot and cold water shall be adequate.

(7) Inmates may be housed in dormitories if the inmates are of the same security classification and properly segregated as required under s. 302.36, Stats. Dormitories may be used for Huber law inmates or other groups by classification. Dormitories shall include sufficient washbasins, toilets and showers.

(8) All windows accessible to prisoners shall be covered with a heavy gauge screen of ¼ inch mesh or less or a detention screen to prevent passage of contraband. If the window leads to the exterior of the jail or to an area outside the secure perimeter of the jail and the exterior window does not open, the detention screen may be omitted if the window is mounted in a detention strength frame and the pane is security glass of sufficient strength to resist breakage and prevent the passage of contraband.

(9) An approved security door with an observation opening shall be provided for each entrance into the secure perimeter of a jail. The door may not be unlocked except to admit authorized persons and inmates.

(10) A detention strength locking device shall be installed on each security door. Jail sections having multiple cells shall be provided with locking devices so that doors may be unlocked by a remote release located in an area not accessible to inmates.

(11) The exterior of and approaches to the jail shall be well lighted at night to permit observation of persons approaching the building.

**DOC 350.08 Variance.** (1) The department may grant a variance to a requirement found in this chapter, except that no variance may be granted for the conditions required to permit double celling under s. DOC 350.20 or for any requirement specifically imposed by Wisconsin Statutes.

(2) In order to obtain a variance, the sheriff shall demonstrate in writing that strict enforcement of the rule would result in unreasonable hardship for administration of the jail and that the variance would provide equivalent or better protection for the health, safety, rights, and welfare of inmates and the public.

(3) The department may impose specific conditions including reasonable time limits on a variance in order to protect the health, safety, rights, and welfare of inmates and the public.

(4) Violation of any condition under which a variance is granted constitutes a violation of this chapter. Upon finding that there has been a violation of a condition of the variance, the department may revoke the variance and require strict enforcement of the rule.

(5) Any variance granted shall not set a precedent.

**DOC 350.09 Policy and procedure manual.** (1) CONTENT OF MANUAL. The sheriff shall develop a written policy and procedure manual for the operation of each jail. The manual shall contain all of the following:

(a) Statement of the policies of the facility, including policies under ss. DOC 350.11 to DOC 350.35.

(b) Statement of the availability of the manual to staff.

(c) Statement of the procedure for notification to inmates of policies.

(2) SUBMISSION AND APPROVAL OF MANUAL. (a) *Department approval.* The sheriff shall submit the initial policy and procedure manual to the department for approval, using the following procedure:

1. The department shall approve or disapprove the manual in writing within 90 days after submission. If the department approves the manual, the department shall notify the sheriff in writing of the approval.

2. If the department disapproves the manual, the department shall notify the sheriff in writing of the decision and the reasons for the disapproval. If the sheriff accepts the decision, the sheriff shall submit a revised manual which conforms with the decision within 21 days of the date of the disapproval. If the sheriff does not accept the decision of the department, then the sheriff may appeal under par. (b).

(b) *Appeal to secretary.* Within 21 days of the date of the disapproval, the sheriff may appeal the department's disapproval to the secretary. The secretary shall issue a decision within 30 days of the appeal. The decision shall be in writing and shall state the reasons for the decision. If required by the secretary's decision, the sheriff shall modify the manual and resubmit it within 60 days of the decision to the department.

(c) *Changes to manual.* Any proposed substantive changes to an approved manual shall be submitted to the department and shall be reviewed under the procedures of this subsection.

**DOC 350.10 Records and reporting.** (1) REGISTER OF INMATES. Each jail shall keep a register of all inmates. The register shall contain identifying information on each inmate, including name, residence, age, sex, race, court order, time and cause of placement and placing authority, and time of release and releasing authority. If an inmate escapes, the time and manner of the escape shall be recorded in the register.

(2) **STORAGE OF RECORDS.** Records shall be kept in a secure area. Juvenile records shall be kept separate from adult records and shall be maintained in a confidential manner in accordance with s. 938.396, Stats., and any other applicable federal or state law.

(3) **REPORTING REQUIREMENTS.** (a) The sheriff shall notify the department's regional detention facilities specialist within 48 hours after any of the following events occur:

1. An inmate dies.

2. An inmate attempts suicide and is admitted to a hospital, excluding an emergency room admission or admission for detention and evaluation under ch. 51, Stats., or is provided medical treatment for a life-threatening injury incurred as a result of the suicide attempt.

3. An inmate or staff is hospitalized due to an injury caused by assault or use of force.

4. An inmate escapes or attempts to escape from secure custody.

5. There is significant damage to the jail affecting the safety or security of the facility.

(b) The sheriff shall promptly furnish to the department all requested information.

**DOC 350.11 Food service.** The jail shall have policies and procedures relating to food service, including the following components:

(1) The jail shall provide nutritious and quality food for all inmates.

(2) An annual menu review by a qualified nutritionist or dietician shall be completed and maintained in the facility files.

(3) An annual inspection of all full-production and service kitchens in a jail by a qualified, independent outside source documenting that the food service area meets health and safety codes.

(4) Internal monthly inspection of the food service area is completed and documented.

(5) The kitchen area and all equipment are maintained in a sanitary condition. Routine inspections are completed and documented.

(6) Three nutritious meals are provided daily, two of which are hot. Variations may be allowed based on weekend and holiday food service demands, provided basic nutritional goals are met.

(7) Food temperatures are properly maintained.

(8) Food items are stored appropriately at least 6 inches off the floor. Opened food packages are stored in airtight containers that are labeled and dated. Food items are stored in appropriate locations and temperatures.

(9) Special diets are provided as prescribed by a qualified health care professional.

(10) An inmate may abstain from any foods that violate the inmate's religion. Consistent with available resources, the jail shall provide a substitute from other available foods from the menu served at the meal. The substitutions shall be consistent with sub. (1).

(11) Inmates assigned to the kitchen who prepare or serve food shall bathe or shower daily and be provided a clean uniform.

(12) No person who is known to be infected with any illnesses transmittable by food or utensils may be employed or work as a food handler in a facility.

(13) All persons who work in food service areas shall wear clean garments and clean caps or hairnets and shall keep their hands clean at all times when engaged in the handling of food, drink, utensils or equipment. Particular attention shall be given to the cleaning of fingernails.

(14) Inmate workers are provided orientation and training prior to assignment in the kitchen area.

(15) Inmate workers are supervised throughout all aspects of food preparation and service.

(16) Food and drink shall be protected from contamination. Meals are covered during transit to and within the facility.

(17) Kitchen food storage and dishwashing equipment temperatures are routinely monitored and documented.

(18) Garbage containers are covered, emptied daily and kept clean.

(19) Cleaning agents are stored separately from food service items.

(20) A security procedure is in place to control and account for sharps, tools and utensils at all times.

**DOC 350.12 Sanitation and hygiene.** The jail shall have policies and procedures relating to sanitation and hygiene, including the following components:

(1) Facilities are required to be clean and in good repair.

(2) Blankets shall be laundered monthly and before reissue.

(3) Sheets, pillowcases and mattress covers shall be changed and washed at least weekly and before reissue.

(4) Clean towels shall be issued to each inmate twice a week.

(5) Mattresses shall be provided where there is a need for overnight detention. Each mattress and each pillow, if used, shall be covered with a fire retardant, waterproof, easy-to-sanitize material. Mattresses and pillows shall be kept in good repair and in a clean and sanitary condition. The sheriff shall provide adequate bedding. Mattresses shall be cleaned and sanitized before reissue.

(6) Suppliers of mattresses and pillows shall provide evidence to the sheriff that the products are fire retardant, waterproof, and easy to clean.

(7) Mattresses shall be of proper size to fit the bed.

(8) The sheriff shall provide an inmate whose clothing has been confiscated with adequate and appropriate clothing, including footwear, for use while the inmate is in custody. Footwear shall be cleaned and sanitized before reissue.

(9) Laundry schedule shall be established to meet daily needs. All issued and allowed clothing items are laundered twice weekly.

(10) Vermin and pests are controlled with an effective, documented program. Containers of poisonous compounds used for exterminating rodents or insects shall be prominently and distinctly labeled for easy identification of contents. Poisonous compounds shall be stored independently and separately from food and kitchenware in a locked area not accessible to inmates.

(11) After 24 hours, inmates shall be provided with toilet articles sufficient for the maintenance of cleanliness and hygiene, including toothpaste and toothbrush, soap and comb. Basic feminine hygiene materials for females and toilet paper shall be provided to inmates upon request. There shall be no common use of toothbrushes, combs, shaving materials or feminine hygiene materials.

(12) Inmates are provided cleaning materials daily. Tables used for common use and meals shall be kept sanitized. Door traps used for passing meals or other items shall be kept sanitized.

(13) Safety and sanitation inspections of the jail are completed and documented at a minimum of once monthly.

(14) Common use grooming tools are disinfected and cleaned before reissue and are stored in a secure area.

(15) Property storage containers shall be sanitized before reuse.

(16) Trash is removed daily from all dayrooms.

(17) Hazardous waste shall be disposed of according to government regulations.

**DOC 350.13 Inmate health screening.** The jail shall have policies and procedures for inmate health screening, including the following components:

(1) Use of a health screening form that is developed in conjunction with health care professionals and is used at booking with each inmate to record information about medical, mental health and dental conditions, physical and developmental disabilities, alcohol or other drug abuse problems, and suicide risk.

(2) Referrals to medical, mental health or supervisory staff in a timely manner in response to identified concerns. If urgent concerns are identified, the referral shall be immediate.

(3) Review of the health screening form by health care or other designated staff within 72 hours if non-urgent concerns are identified.

(4) Documentation of health screening results and subsequent review of the health screening form in an inmate's confidential medical file.

(5) A health appraisal that is to be completed within 14 days after arrival at the facility unless a health appraisal has been completed by health care staff within the previous 90 days. The health appraisal shall be completed by health care staff in accordance with protocols established by the responsible physician.

**DOC 350.14 Inmate health care.** There shall be sufficient equipment, material, space, and supplies for the performance of health care services in a confidential manner. The jail shall have policies and procedures for inmate health care, including the following components:

(1) The sheriff shall provide or secure necessary medical and mental health treatment and emergency dental care for inmates in custody.

(2) Nursing care shall be provided in accordance with the standards of practice established by the board of nursing, ch. N 6.

(3) Health care staff shall be in compliance with state and federal licensure certification and registration. Verification of compliance shall be maintained at the facility.

(4) Medical records shall be kept separate from other records and shall be maintained in a confidential manner in accordance with ss. 146.81 to 146.83, Stats., and any other applicable state or federal laws.

(5) If an inmate dies or becomes acutely ill while in custody, the next of kin shall be notified as soon as possible.

(6) Officers shall receive documented annual training on health care policies and procedures, medications, and health screening at the time of admission.

**DOC 350.15 Health care policy.** The jail shall have policies and procedures for inmate health care, including the following components:

(1) Documentation of health referrals made or health care provided.

(2) Maintenance of documents in an inmate's confidential file.

(3) Names, addresses and telephone numbers of health care providers or agencies who have agreed to provide emergency and routine health care services for inmates.

(4) Referral of an inmate to jail health care staff or to other agencies that provide health care.

(5) Designation of staff who have the authority to make health care decisions, including emergency medical and dental care.

- (6) Non-emergency health care, including use of an inmate's personal physician.
- (7) Schedule of inmate access to routine medical care.
- (8) Provision for inmates with chronic medical conditions.
- (9) Procedure for processing inmate medical requests on a daily basis.
- (10) Documentation in an inmate's confidential medical file of any referral and identification of the services provided, including emergency services.
- (11) Provision of special diet if ordered by a qualified health care professional.
- (12) Pregnancy management.
- (13) Maintenance of agreements between the jail and providers of health care services.
- (14) Use of health transfer summary form under s. 302.388 (2), Stats.
- (15) Communicable disease and infection control. Policies and procedures relating to communicable disease and infection control shall contain all of the following components: (a) Provision of treatment and supervision of inmates during isolation or quarantine under s. 252.06 (6) (b), Stats.
- (b) Documentation of the need for isolation or quarantine under s. 252.06 (6) (b), Stats., in the inmate's confidential medical file.
- (c) Provision of laboratory screening for inmates who may have been exposed to a communicable disease if ordered by medical personnel.
- (d) Provision for handling bio-hazardous waste and decontaminating medical and dental equipment in accordance with regulations.
- (16) Detoxification and management of intoxicated inmates.

**DOC 350.16 Control and administration of medications.** The jail shall have policies and procedures relating to the control, delivery and administration of prescription and nonprescription medications, including the following components:

- (1) A qualified health care professional shall prescribe medications and order treatments.
- (2) Designated trained staff may administer or deliver prescribed doses of medication at prescribed times. Annual documented training shall be provided to jail staff that deliver medications.
- (3) Determination by appropriate personnel that all medications brought in by inmates or other persons for an inmate are necessary.
- (4) All medications brought into the jail shall be inventoried and placed in secure storage.
- (5) Any medications kept at the jail shall be stored in a locked drug cabinet that is not accessible to inmates.
- (6) Administration or delivery of prescription and nonprescription medications to inmates.
- (7) Medication administered or delivered to an inmate shall be documented, including who prescribed the medication, who administered or delivered the medication, and the date and time of administration or delivery.
- (8) All refusals of recommended or prescribed medications by an inmate shall be documented. A health care professional shall monitor the inmate in accordance with requirements of s. 302.384, Stats.
- (9) Return of an inmate's medications inventoried at admission.
- (10) Inventory or disposal of unused medications upon the inmate's release or transfer.



**DOC 350.17 Suicide prevention.** The jail shall have policies and procedures relating to the supervision and housing of inmates who may be at risk of seriously injuring themselves, including the following components:

(1) Obtaining documented information from the arresting or transporting agency to assess an inmate's potential for suicide or self-harm.

(2) Intake screening of inmates that includes interview items and staff observation related to potential suicide risk.

(3) Procedure for placement of an inmate on suicide watch. Policies and procedures relating to the procedure for placing an inmate on suicide watch shall include all of the following components:

(a) Immediate notification to designated supervisory staff if an inmate is identified as a suicide risk.

(b) Designation of housing areas and security precautions for inmates who are placed on suicide watch.

(c) Description of monitoring procedures for inmates on suicide watch, including frequency and documentation of wellness checks.

(4) Identification of trained persons who may assess an inmate's level of suicide risk.

(5) Notification to qualified mental health professionals within 12 hours of placement of a potentially suicidal inmate on suicide watch. Assessment by a qualified mental health professional shall be completed as soon as practicable.

(6) Identification of qualified mental health professionals who are authorized to remove an inmate from a suicide watch status after an on-site face-to-face assessment.

(7) Frequency of communication between health care and jail personnel regarding the status of an inmate who is on suicide watch.

(8) Intervention protocol during an apparent suicide attempt, including life-sustaining measures.

(9) Identification of persons to be notified in case of attempted or completed suicides.

(10) Documentation of actions and decisions regarding inmates who are suicide risks, including all of the following:

(a) Individual initiating the suicide watch.

(b) Date and time watch was initiated.

(c) Reason watch was initiated.

(d) Name of supervisor contacted.

(e) Date and time supervisor contacted.

(f) Name, date, and time of referral to mental health professional.

(g) Written documentation from the mental health professional removing an inmate from a suicide watch including name, date and time.

(11) Implementation of 2 hours of annual documented staff training regarding suicide prevention and identification of risk factors.

(12) Access by staff to debriefing and support services.

(13) Implementation of an operational review following a suicide or significant suicide attempt.

**DOC 350.18 Security.** The jail shall have policies and procedures relating to jail security, including all of the following components:

(1) **INMATE SUPERVISION.** To ensure their well-being, all inmates are physically observed by jail staff at frequent and irregular intervals not to exceed the following:

(a) 60 minutes for inmates housed in general population.

(b) 15 minutes for inmates housed on suicide watch.

(2) **SUPPLEMENTAL OBSERVATION.** A video monitoring system may be used to supplement but not replace physical observations.

(3) **DOCUMENTATION.** Each observation shall be documented.

(4) **INMATE COUNTS.** Description of the system for physically counting inmates. Formal counts shall be completed and documented at least three times per day, with a minimum of one count per shift.

(5) **SECURITY INSPECTIONS.** Description of procedures for conducting and documenting facility and area searches.

(6) **INMATE SEARCHES.** Description of procedures for conducting and documenting inmate pat down, strip, and body cavity searches.

(7) **DOOR AND LOCK INSPECTIONS.** Monthly inspections shall be made to determine if all jail doors and locks within and to the secure perimeter of the facility are in good working order. Each inspection shall be documented.

(8) **KEY CONTROL.** Control and use of jail keys, including all of the following:

(a) All issued keys shall be inventoried and accounted for at shift change.

(b) All keys shall be stored in a secure area and accessible in the event of an emergency.

(c) Inmates are not permitted to handle or utilize jail keys.

(9) **WEAPONS CONTROL.** Introduction, availability, control, inventory, storage and use of firearms, chemical agents, electronic control devices, or other related security devices and specification of the level of authority required for their access and use.

(10) **TOOL AND SHARPS CONTROL.** Introduction, availability, control, inventory, storage and use of tools and sharps within the facility.

**DOC 350.19 Fire safety.** The jail shall have policies and procedures relating to fire safety, including the following components:

(1) The facility conforms to applicable federal, state, and local fire safety codes.

(2) Each jail shall develop a fire safety policy in accordance with local fire department recommendations that addresses all of the following:

(a) Local fire department inspection requirements under sub. (5).

(b) Fire protection equipment location and maintenance. Each jail shall have and shall properly maintain fire alarms, smoke and thermal detectors, fire extinguishers, and self-contained breathing apparatuses which operate for at least 30 minutes.

(c) Training of staff in equipment use and the evacuation of inmates.

(d) A written evacuation plan.

(3) The evacuation route developed as part of the evacuation plan under sub. (2) (d) shall be posted in a conspicuous place for staff in the jail.

(4) Fire safety evacuation and other procedures shall be practiced or simulated by all jail staff at least once every 12 months. Each practice or simulation shall be documented.

(5) The facility shall be inspected by the local fire department at least once every 12 months and a record thereof shall be maintained.

(6) There shall be monthly inspections of the facility to ensure compliance with safety and fire prevention standards. Inspections shall be documented.

(7) After the effective date of this section [LRB inserts date], sprinkler heads accessible to inmates not under direct supervision must be tamper and suicide resistant.

**DOC 350.20 Double ceiling.** If approved by the department, the jail shall have policies and procedures relating to double ceiling, including the following components:

(1) The county board and sheriff shall determine jointly the adequate staffing needs, including support staff and services that are required to ensure the health, safety and security of the jail staff and inmates when using cells for double occupancy. The joint determinations shall be in writing and signed by the representatives of the county board and the sheriff and shall be filed with the department. The written joint determination shall remain in effect until rescinded or amended by mutual written agreement of the county board and sheriff. Unless there is adequate staff as agreed upon by the county board and sheriff, double ceiling may not occur.

(2) Inmates housed in the same cell shall have the same custody classification and be properly segregated as required under s. 302.36, Stats.

(3) For male and female housing areas, at least one cell or 15% of the jail's total number of cells, whichever is greater, shall be maintained for single occupancy.

(4) Receiving cells may not be used for double occupancy.

**DOC 350.21 Inmate classification.** All jails shall meet the requirements set forth in s. 302.36, Stats. The sheriff shall establish and maintain an objective prisoner classification system to determine prisoner custody status and housing assignment, and develop eligibility criteria for prisoner participation in available work assignments, programs, and community service projects. The jail shall have policies and procedures relating to classification, including the following components:

(1) Description of the objective prisoner classification system, including the identification and training of staff authorized to classify prisoners, initial classification and reclassification procedures, and prisoner appeal process.

(2) Eligibility criteria for prisoner participation in available work assignments, programs, and community service projects.

(3) Review of prisoner classification decisions.

**DOC 350.22 Use of force.** The jail shall have policies and procedures for the use of force, including the following components:

(1) Jail staff may use physical force against an inmate only if force is necessary to change the location of an inmate or to prevent death or bodily injury to the staff member, the inmate or someone else, unlawful damage to property, or the escape of an inmate from the jail. Staff may use only the amount of force reasonably necessary to achieve the objective for which force is used. Corporal punishment of inmates is forbidden.

(2) Any staff member who has used force to control an inmate or inmates shall submit a written report to the sheriff, jail administrator or the staff member's supervisor describing the incident. The report shall include all known relevant facts and be submitted by the end of the shift unless otherwise authorized by the sheriff or sheriff's designee.

**DOC 350.23 Use of restraints.** The jail shall have policies and procedures governing the use of restraints and control devices, including the following components:

(1) Restraint devices are never used as punishment and are not applied longer than necessary.

(2) When an inmate is mechanically restrained for non-routine purposes, a written report must be completed by the end of the shift unless otherwise authorized by the sheriff or sheriff's designee. Documentation shall include the reason for use, duration of use, and corresponding wellness checks.

**DOC 350.24 Discipline.** The jail shall have policies and procedures outlining inmate discipline and due process, including the following components:

(1) **INMATE RULES OF BEHAVIOR.** Every jail shall have written rules of behavior for inmates. At the time of admission, each person shall be notified verbally of the existence of the jail's rules for inmate behavior and the potential disciplinary actions for violation of the rules. Each inmate shall be provided with a copy of the jail rules or copies of the rules shall be posted in conspicuous places in the jail.

(2) **DISCIPLINE FOR A MINOR VIOLATION.** (a) In this subsection, "minor violation" means a violation of the jail's rules of behavior for which minor discipline, or any combination of these consequences may be imposed if the accused inmate is found guilty. A minor discipline is a verbal or written reprimand, restriction of privileges for 24 hours or less, or placement in disciplinary segregation for 24 hours or less.

(b) A staff member who observes an inmate committing a minor violation shall inform the inmate of the rule that he or she has violated, the potential discipline, and the disciplinary procedures for minor violations under pars. (c) to (g).

(c) The staff member shall give the inmate an opportunity to make a verbal statement about the alleged violation to the staff member.

(d) The staff member may impose a minor discipline if he or she finds that a violation occurred.

(e) The staff member shall inform his or her supervisor of the incident and the discipline administered as soon as the supervisor is available. The supervisor shall review the incident and discipline administered. If the supervisor concludes that the violation constitutes a major violation, the alleged infraction shall be handled in accordance with sub. (3). If the supervisor finds that no violation has occurred, the inmate shall be notified that the charge has been dismissed.

(f) The inmate may appeal the supervisor's decision. The jail shall have a procedure for an inmate to follow if the inmate wishes to appeal that decision. The inmate shall be notified of his or her right to appeal the supervisor's decision and of the jail's procedure for making the appeal.

(g) Information about the incident, the discipline administered, and the supervisor's decision shall be made part of the inmate's file. If the supervisor finds that no violation occurred or if the reviewer of an appeal submitted under par. (f) finds that no violation occurred, the due process records shall reflect those findings.

(3) **DISCIPLINE FOR A MAJOR VIOLATION.** (a) In this subsection, "major violation" means a violation of the jail's rules of behavior for which major discipline, or any combination of these consequences may be imposed if the accused inmate is found guilty. A major discipline is restriction of privileges for more than 24 hours, placement in solitary confinement for more than 24 hours in accordance with s. 302.40, Stats., loss of good time in accordance with s. 302.43, Stats., restrictions affecting Huber law privileges in accordance with s. 303.08, Stats., or restrictions affecting work release in accordance with s. 303.065, Stats.

(b) A staff member who observes an inmate committing a major violation shall submit a written report to his or her supervisor within 24 hours of the incident.

(c) The inmate shall be notified of the charges and of his or her right to a hearing under par. (d) at least 24 hours in advance of the hearing. The inmate may waive this time requirement.

(d) A due process hearing shall be held within seven calendar days unless an inmate waives the right to a due process hearing under par. (e). The due process hearing shall be conducted in accordance with all of the following:

1. An impartial hearing officer or committee shall conduct the due process hearing. The hearing may not be conducted by a person who may review an appeal made under par. (d) 6. or who has personally observed, been a part of, or investigated the incident which is the subject of the hearing.

2. The inmate has the right to be present at the hearing, to make a statement, and to present relevant evidence. If the inmate refuses to attend the hearing or disrupts the hearing, the hearing may be conducted without the inmate being present. The hearing officer or committee may hear the testimony of a witness outside the presence of the accused inmate if there is a significant risk of bodily harm to the witness in testifying in front of the accused inmate. The reason for the accused inmate's absence shall be documented.

3. The inmate has the right to present any relevant witness whose testimony is not cumulative of other evidence unless the safety of any other witness or the security of the jail would be threatened if that witness testified. The reasons for the absence of the witness shall be documented.

4. If the inmate is illiterate or the issues are complex, the inmate has the right to a staff advocate or adequate substitute aide to assist him or her in understanding the charges and preparing a defense.

5. The hearing officer or committee may consider the inmate's mental illness, developmental disability or other emotional or mental disability as a mitigating factor in imposing the discipline.

6. The hearing officer or committee shall issue a written decision that shall state the discipline to be administered. The inmate shall receive a written copy of the decision.

7. The inmate shall be notified of his or her right to appeal the hearing officer or committee's decision and of the jail's procedure for making an appeal.

8. Information on the incident, the discipline administered, and the hearing officer or committee's decision shall be made part of the inmate's file. Upon appeal, if the hearing officer or committee or the reviewer under par. (d) 6. finds that no violation occurred, the due process records shall reflect those findings.

(e) An inmate may waive the right to a due process hearing under par. (d) in writing at any time. If the inmate waives the right to a due process hearing, the violation shall be disposed of in accordance with the procedures for minor violations under sub. (2), except that a major discipline may be imposed if the relevant staff member finds a violation occurred. A waiver does not constitute an admission of the alleged violation.

(4) **CLASSIFICATION.** An inmate may be evaluated for custody classification following the imposition of discipline.

**DOC 350.25 Administrative confinement.** In this section, "administrative confinement" means a nonpunitive, segregated confinement of an inmate in his or her cell or other designated area to ensure personal safety and security within the jail. The jail shall have policies and procedures outlining the administrative confinement process, including the following components:

(1) An inmate may be placed in administrative confinement if the inmate's continued presence in the general population meets one of the following:

- (a) Presents a substantial risk of physical harm to the inmate, another person or property.
- (b) Threatens the security and order of the jail.
- (c) Inhibits a pending disciplinary investigation.

(2) A jail staff member shall inform his or her supervisor of any incident that may require administrative confinement of an inmate, and the supervisor shall determine whether to place the inmate in administrative confinement. In the absence of his or her supervisor, a jail staff member may place an inmate in administrative confinement. The staff member's supervisor shall review that placement decision within 24 hours. This review shall include evaluation of the inmate's classification.

(3) An inmate's progress in administrative confinement shall be reviewed by a supervisor at least once every seven days. The supervisor shall determine when the inmate no longer presents a threat to the safety, security and order of the jail and may be released to the general population. Each review shall be documented.

(4) The reason an inmate is placed in administrative confinement and the length of time the inmate remains in administrative confinement shall be documented in the inmate's file.

**DOC 350.26 Grievance process.** The jail shall have policies and procedures relating to an inmate grievance process and ensure it is available to all inmates and includes at least one level of appeal.

**DOC 350.27 Legal access.** The jail shall have policies and procedures to address inmates' access to the courts, their attorneys, and legal materials.

**DOC 350.28 Indigence.** The jail shall have policies and procedures to address indigence, including all of the following components:

- (1) The jail shall establish definitions and procedures to define indigence.
- (2) Inmates' access to health care, programming and essential services is not precluded by inability to pay.

**DOC 350.29 Mail.** The jail shall have policies and procedures relating to written contact between inmates and their families, friends, attorneys, the court system, governmental officials and others, including the following components:

- (1) Provision for staff inspection and reading of nonprivileged incoming and outgoing mail.
- (2) Provision for the limited inspection of incoming and outgoing privileged mail.
- (3) Delivery of all nonprivileged and approved privileged incoming mail.
- (4) Inventory and disposition of contraband items found in mail.
- (5) Provision of postage to indigent inmates.
- (6) Provision for notifying inmates when incoming or outgoing mail is withheld.

**DOC 350.30 Visitation.** The jail shall have policies and procedures relating to visitation, including the following components:

- (1) Establishment of visitation schedule for family, friends, attorneys and others. Attorney visits shall be allowed during reasonable hours, as long as security and daily routine are not unduly interrupted.

- (2) Establishment of procedures for requesting visitation during nonscheduled times.
- (3) Documentation of all visits through a visitor log or register.
- (4) Establishment of a search policy of visitors and their possessions.
- (5) Posting of visitation policies and procedures, including visitation schedule, in a place readily accessible to visitors and inmates.
- (6) Establishment of a search policy for inmates before and after each visit.

**DOC 350.31 Programs and services.** The jail shall have policies and procedures relating to the provision of inmate programs and services, including the following components:

- (1) Use of community resources, contract providers, and volunteers authorized by the sheriff.
- (2) Notification to inmates of availability, eligibility, and schedules.
- (3) Conducting criminal background checks on all volunteers, community resources, and contract providers.
- (4) Orientation and training on facility operations for all volunteers.
- (5) Educational programming for inmates who are under 18 years of age consistent with the requirements of the Department of Public Instruction.

**DOC 350.32 Religious programming.** Inmates shall have the opportunity to participate in practices of their religious faith consistent with existing state and federal statutes. The jail shall have policies and procedures relating to religious programming, including the following components:

- (1) Identification of religious organizations and clergy willing to conduct religious services in the facility.
- (2) Notification to inmates of the schedule of religious services available in the jail.
- (3) Identification of religious items that may be kept on an inmate's person or in the cell.
- (4) Conducting criminal background checks on members of a religious organization and clergy.
- (5) Orientation and training on facility operations for all volunteers.

**DOC 350.33 Recreation.** The jail shall have policies and procedures relating to recreation, including the following components:

- (1) Identification of the recreational activities that are available.
- (2) Schedule of recreational activities.
- (3) When and where available, at least one hour of daily exercise and recreation is outside the cell or outdoors.

**DOC 350.34 Publications.** The jail shall have policies and procedures relating to access to publications, including the following components:

- (1) Provision of publications of general interest for inmates such as books, newspapers, and magazines.
- (2) Identification of publications that are prohibited for inmates because their content creates a security risk.
- (3) Inspection of publications brought by visitors for inmates if the jail allows visitors to bring in reading materials.

**DOC 350.35 Canteen.** The jail shall have policies and procedures for the establishment and

use of canteen, vending, or other similar services for inmates, including the following components:

(1) Canteen shall be made available to eligible inmates.

(2) Access to canteen may be restricted by the facility based upon inmate classification or status.

SECTION 2. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro), stats.

## **RULE SUMMARY**

### **A. Statutes interpreted:**

Sections 301.03 (5), 301.33, 301.36, 301.37, 302.30, 302.31, 302.315, 302.36, 302.365, 302.37, 302.38, 302.383, 302.388, 302.39, 302.40, 302.41, and 302.42.

### **B. Statutory Authority to Promulgate the Rule:**

Section 227.11 (2), 301.03 (5), 301.36, 301.37 and 302.365 (1).

### **C. Explanation of agency authority:**

The Department of Corrections is responsible for establishing standards for and inspecting jails.

### **D. Related statute or rule:**

Chapters DOC 346, secure detention for juveniles, DOC 348, Huber facilities, Wis. Adm. Code

### **E. Plain Language Analysis:**

This rule:

1. Reorganizes and renumbers the existing chapter DOC 350. Specifically, creates administrative rule provisions for the following: Food service, Inmate classification, Use of restraints, Grievance process, Legal access, Indigence, and Programs and services.
2. Expands existing inmate health care provisions listed in current code as “Health care” and is now listed in three sections: “Inmate health screening”, “Inmate health care” and “Health care policy.”
3. Changes the title of “Physical environment for new or substantially remodeled jails” in current code to “Physical environment for new or substantially remodeled jails on or after March 1, 1990 to (date of new rule).”
4. Changes the title “Physical environment of existing jails” in current code to “Physical environment of jails constructed before March 1, 1990.”



5. DOC 350.01 Purpose and authority – Amends the statement to include operation of jails and houses of correction.
6. DOC 350.03 Definitions – Creates definitions for “court holding”, “exercise space”, “natural lighting”, and “unencumbered space”.
7. Removes the definitions for “division” and “special needs inmates” since they are no longer used. “Division” referred to the division of probation and parole, and has been replaced with “Department.”
8. Amends the definitions for “dayroom”, “health screening form”, “holding room”, “multipurpose room”, and “privileged mail.”
9. DOC 350.04 Construction plans – Clarifies the procedure for the submission and approval of construction plans.
10. DOC 350.05 Physical environment for new or substantially remodeled jails – Alphabetizes the equipment and materials list, adds “skylights” and “sprinkler heads” to the list, and changes “contraband proof sills” to “contraband proof threshold.”
11. Changes the minimum floor area of cells used for single occupancy to at least 35 sq. ft. of unencumbered space. The current rule specifies that a single occupancy cell shall have a minimum floor area of at least 54 sq. ft.
12. Adds the requirement that, from the effective date of the updated DOC 350, double cells have a floor area of at least 25 sq. ft. of unencumbered space per occupant, that the distance between the floor and ceiling may not be less than 8 ft., and the distance between opposite walls may not be less than 6 ft. The current code requires that for jails constructed or substantially remodeled on or after March 1, 1990 to be used for double occupancy, a cell shall have a floor area of at least 70 square feet.
13. Adds the requirement to provide occupants of dayrooms, dormitories and cellblocks access to natural light.
14. Adds the requirement that dayrooms provide a minimum of 35 sq. ft. per inmate.
15. Removes the reference to dormitory dayrooms under s. DOC 350.05 (4) since they are referenced in s. DOC 350.05 (6) (b).
16. Clarifies that receiving cells shall have a minimum floor area of at least 35 sq. ft. of unencumbered space. The current rule specifies that a receiving cell shall have a minimum floor area of at least 54 sq. ft.
17. Removes the wording “and properly segregated as required under s. 302.36, stats.” from 350.05 (6) (a).
18. Amends the requirement that each dormitory shall have a minimum floor area of 35 sq. ft. per occupant, excluding the toilet and shower area to state that each dormitory shall have a minimum floor area of 35 sq. ft. of unencumbered space per occupant for sleeping purposes.
19. Adds the requirement that each dormitory shall have a minimum floor area of 35 sq. ft. for the purpose of a dayroom and that each dayroom shall have detention strength tables and seating for the number of occupants.
20. Removes the wording “A secured area” for personal property shall be provided for each occupant of each dormitory to read “An area” for personal property shall be provided for each occupant of a dormitory. This change was also made to the

- requirements of facilities that were built after 1990 but before the effective date of the new rule. (See ss. DOC 350.05 (6) (d) and DOC 350.06 (d).)
21. Clarifies that holding rooms are intended to be used for admission, release and investigative purposes. Removes requirement that holding rooms are designed for persons of the same classification. (See ss. DOC 350.05 (7) and 350.06 (7).)
  22. Adds the requirement that washbasins in holding rooms have hot and cold running water.
  23. Creates a provision for court holding, DOC 350.05 (8), which requires that court holding rooms: shall only be used for courtroom purposes; may not be used as a cell, dormitory or receiving cell; supervision is subject to the requirements of DOC 350.18 and ss. 302.41 and 302.42, stats.; may be designed and used for multiple occupancy for inmates who are properly segregated under ss. 938.209 and 302.36, Stats.; shall contain detention strength, rigidly constructed seats or benches bracketed to the wall or bolted to the floor or seats of masonry construction of a similar strength; shall be provided a detention strength, institution-type washbasin and toilet; and shall have a floor area of at least 50 sq. ft. with an additional 10 sq. ft. for each occupancy above five.
  24. Amends the provision for a “multipurpose room for recreation, physical exercise and congregate assembly other than visiting” to read “multipurpose rooms for programming, education or congregate assembly other than visiting”. Requires that “there shall be a minimum of one multipurpose room per 100 inmates based upon approved rated capacity and that each multipurpose room shall have a minimum floor area of 300 sq. ft.” The current code only states that “the multipurpose room shall have a minimum floor area of 300 sq. ft.”
  25. Creates the requirement for exercise space.
  26. Creates the requirement that “interior walls between cells and housing units are to be constructed tight to the structure.”
  27. Clarifies ceiling construction requirements regarding detention strength materials.
  28. Changes the word “sill” to “detention strength framing and a threshold” in relation to exterior exit doors in DOC 350.05 (15) (a).
  29. Clarifies DOC 350.05 (15) (c) by changing “except for” to “other than” and separating into (c) and (d).
  30. DOC 350.06 Physical environment for new or substantially remodeled jails on or after March 1, 1990 to (date of new rule) – Lists the provision for a cell used for double occupancy in (3) (d). (Moved to this section from DOC 350.07 Double Ceiling in current code.)
  31. DOC 350.07 “Physical environment of existing jails” in current code amended to read “Physical environment of jails constructed before March 1, 1990” to specify code requirements jails constructed before March 1, 1990.
  32. DOC 350.08 Variance – Changes section title from “Exceptions” to “Variance.” Adds that any variance granted shall not set automatic precedent.
  33. DOC 350.09 Policy and procedure manual – Removes requirement to consult with outside sources to create the policies and that the policies should reference provider agreements. Removes the word “each” from s. DOC 350.09 (1) (c).

34. DOC 350.10 Records and Reporting – Removes reference to “Jail Log”. Changes the wording “records of inmates 18 years of age or older” to “adult records.” Adds to the reporting requirements under (3).
35. DOC 350.11 Food service is a new section – Creates the requirement that the jail shall have policies and procedures relating to food service.
36. Creates provisions for food service requirements: nutritious and quality food provided for all inmates, three provided daily, two of which are hot (variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met); annual menu review by a qualified nutritionist or dietician; annual inspection of all full-production and service kitchens by a qualified, independent outside source documenting food service facility meets health and safety codes; internal monthly inspection of food service area; maintenance and inspection of kitchen area and all equipment; maintenance of food temperatures; storage of food items; special diets; religious diets; attire and hygiene requirements for food service area workers; persons known to be infected with a communicable disease may not be employed or work as a food handler in a facility; orientation, training and supervision of inmate kitchen workers; meals are covered during transit to and/or within the facility; kitchen food storage and dishwashing equipment temperatures; covered garbage containers are emptied daily and kept clean; cleaning agents are stored separately from food service items; and a sharps/utensil/tool control procedure.
37. DOC 350.12 Sanitation and hygiene – Creates the requirement that the jail shall have policies and procedures relating to sanitation and hygiene.
38. Removes statement that jails shall meet the requirements of ch. DHS 190.
39. Adds that a facility is required to be clean and in good repair.
40. Adds the requirement that blankets be laundered monthly as well as before reissue. Removes language regarding timeframe for blankets to be laundered when used with or without sheets.
41. Adds the requirement for mattresses to be cleaned and sanitized before reissue.
42. Removes requirement for mattresses to be at least 3 inches thick and now states “mattresses shall be of proper size to fit the bed”.
43. Adds the requirement that footwear shall be cleaned and sanitized before reissue.
44. Adds the requirement to establish a laundry schedule to meet daily needs and that all issued and allowed clothing items are laundered twice weekly.
45. Adds the requirement that vermin and pests are controlled with an effective, documented program.
46. Removes the wording that inmates “upon request” will be provided towels and toilet articles after 24 hours. Language now reads that “after 24 hours, inmates shall be provided with toilet articles.”
47. Clarifies that basic feminine hygiene materials shall be provided “for females”.
48. Adds the requirement that inmates are provided cleaning materials daily.
49. Adds the requirements that tables for common use and meals, and door traps for passing meals or other items, shall be kept sanitized.
50. Adds the requirement that safety and sanitation inspections of the jail are completed and documented at a minimum of once monthly.

51. Adds the requirement that common use grooming tools are disinfected and cleaned before reissue and are stored in a secure area.
52. Adds the requirement that property storage containers shall be sanitized before reuse.
53. Adds the requirement that trash is removed daily from all dayrooms.
54. Adds the requirement for a provision to dispose of hazardous waste per government regulations.
55. DOC 350.13 Inmate health screening – Adds requirements for referrals to medical, mental or supervisory staff, review of the health screening form, and completion of a health appraisal.
56. DOC 350.14 Inmate health care – Adds the requirement that there “be sufficient equipment, material, space and supplies for the performance of health care services in a confidential manner.”
57. Adds the requirement that “nursing care shall be provided in accordance with the standards of practice established by the board of nursing, ch. N 6” and that “health care staff shall be in compliance with state and federal licensure certification and registration.”
58. Adds the requirement that “officers shall receive documented annual training on health care policies and procedures, medications, and health screening at the time of admission”.
59. DOC 350.15 Health care policy – Clarifies the policy and procedure requirement to list names, addresses and telephone numbers of health care providers.
60. Adds the requirement for provision for inmates with chronic medical conditions.
61. Amends the policy and procedure requirement for the procedure for processing inmate medical requests to include “on a daily basis” and removes “including written disposition”.
62. Clarifies provision of special diet – now states “if ordered by a qualified health care professional”. Current code states “if ordered by a physician.”
63. Adds the requirement to include pregnancy management.
64. Adds the requirement to include use of the Health Transfer Summary form as stipulated in s. 302.388(2), Stats.
65. Adds that the policy and procedure requirement for communicable disease control also include infection control.
66. Adds the requirement to include a provision for handling bio hazardous waste and decontaminating medical and dental equipment.
67. Adds the requirement to include a provision for detoxification and management of intoxicated inmates.
68. DOC 350.16 Control and administration of medications – Adds the requirement that a qualified health care professional shall prescribe medications and order treatments.
69. Clarifies the requirement that jail staff that deliver medications be trained and receive annual documented training.
70. Added the requirement that a health care professional monitor the inmate in accordance with requirements of s. 302.384, Stats. when medication is refused.
71. Under DOC 350.17 Suicide prevention – Adds requirements to obtain documented information from the arresting or transporting agency to assess an

- inmate's potential for suicide or self-harm and screening of inmates that includes interview items and staff observation related to potential suicide risk.
72. Creates the requirement for the provision of immediate notification to designated supervisory staff if an inmate is identified as a suicide risk.
  73. Clarifies the requirement for "identification of housing areas for inmates who are suicide risks." New language states "Designation of housing areas and security precautions for inmates who are placed on suicide watch." Changes all wording of "suicide risk" to "suicide watch."
  74. Clarifies language regarding supervision of inmates on suicide watch to include a description of monitoring procedures.
  75. Clarifies language regarding persons who may assess an inmate's level of suicide risk to reflect that they must be trained and identified.
  76. Creates the requirement for provision to notify qualified mental health professionals of potentially suicidal inmates within 12 hours of placement on suicide watch and provision for an assessment by a qualified mental health professional to be completed as soon as practicable.
  77. Creates the requirement to identify qualified mental health professionals who are authorized to remove an inmate from a suicide watch status after an on-site face-to-face assessment.
  78. Clarifies the requirement for communication between health care and jail personnel regarding the status of an inmate who is on suicide watch to include the frequency of the communication.
  79. Clarifies the language "intervention of a suicide in progress, including first aid measures" that now reads "intervention protocol during an apparent suicide attempt, including life-sustaining measures."
  80. Adds to the requirement of documentation of actions and decisions regarding inmates who are suicide risks which now includes: individual initiating the suicide watch; date and time watch was initiated; reason watch was initiated; name of supervisor contacted; date and time supervisor contacted; name, date and time of referral to mental health professional; and name, date, and time of mental health professional removing inmate from a suicide watch.
  81. Creates the requirement for implementation of 2 hours of annual documented staff training regarding suicide prevention and identification of risk factors.
  82. Creates the requirement for provision of access to debriefing and support services.
  83. Creates the requirement for provision of an implementation of an operational review following a suicide or significant suicide attempt.
  84. DOC 350.18 Security – Adds the requirement for a jail to have policies and procedures relating to jail security.
  85. Creates timeframes for inmate supervision at frequent and irregular intervals – not to exceed 60 minutes for inmates housed in general population and 15 minutes for inmates housed on suicide watch.
  86. Adds that a video monitoring system may be used to supplement but not replace physical observations.
  87. Creates the requirement to include a description of procedures for conducting and documenting facility and area searches, inmate pat down, strip, and body cavity searches.

88. Clarifies monthly inspections of locks and doors. Current rule states “the sheriff shall ensure that monthly inspections are made to determine if cell and fire escape locks and doors are in good working order.” The updated rule states “Monthly inspections shall be made to determine if all jail doors and locks within and including the secure perimeter of the facility are in good working order.”
89. Amends the key control provision to include: “all issued keys are inventoried and accounted for at shift change, all keys must be stored in a secure area and accessible in the event of any emergency, inmates are not permitted to handle or utilize jail keys.” Removes the requirement that “there shall be at least 3 complete sets of jail and fire escape keys, one set in use, one set stored in a safe place which is accessible only to jail personnel for use in an emergency, and one set stored in a secure place outside the jail.”
90. Creates the requirement for weapons control that includes: “introduction, availability, control, inventory, storage and use of firearms, chemical agents, electronic control devices, or other related security devices and specification of the level of authority required for their access and use.”
91. Creates the requirement for tool/sharps control that includes: “introduction, availability, control, inventory, storage and use of tools/sharps within the facility”.
92. DOC 350.19 Fire safety – Adds the requirement that the jail shall have policies and procedures relating to fire safety that also include local fire department recommendations.
93. DOC 350.19 (2) (b)—re-inserted the requirement that each jail shall have and shall properly maintain fire alarms, smoke and thermal detectors, fire extinguishers, and self-contained breathing apparatuses which operate for at least 30 minutes. The requirement is in the current rule. There was a request to re-insert the language for clarity of expectations.
94. Adds the requirement that the facility conforms to applicable federal, state, and/or local fire safety codes.
95. Creates the requirement that documented fire safety training shall be practiced or simulated by all jail staff at least once every 12 months and be documented.
96. Amends requirement for facility inspection by the local fire department “at least once every 6 months” to “at least once every 12 months, and a record thereof shall be maintained.”
97. Creates the requirement to complete and document monthly inspections of the facility to ensure compliance with safety and fire prevention standards.
98. Creates the requirement that, after the date of the new rule, sprinkler heads accessible to inmates not under direct supervision must be tamper and suicide resistant.
99. DOC 350.20 Double ceiling – Adds the requirement that the jail shall have policies and procedures for double ceiling.
100. Clarifies language regarding single occupancy cell requirements in a jail. New rule states “for male and female housing areas, at least one cell or 15% of the jail’s total number of cells, whichever is greater, shall be maintained for single occupancy”. Current rule’s language is wordy and confusing.

101. Removes requirements listed for physical observation under double celling. Physical observation provision is now found under DOC 350.18 Security.
102. Removes references to requirements for dayrooms under DOC 350.20. These provisions are now found under the Physical environment sections.
101. DOC 350.21 Inmate classification is a new section – Creates a requirement for the sheriff to establish and maintain an objective prisoner classification to determine prisoner custody status, housing assignment and develop eligibility criteria for prisoner participation in available work assignments, programs and community service projects s. 302.36, Stats.
102. Creates a requirement for the jail to have policies and procedures relating to inmate classification, including the following components: description of the objective prisoner classification system, including the identification and training of staff authorized to classify prisoners, initial classification and reclassification procedures and prisoner appeal process; eligibility criteria for prisoner participation in available work assignments, program, and community service projects; and review of prisoner classification decisions.
103. DOC 350.22 – Adds the requirement for the jail to have policies and procedures for the use of force.
104. Adds to the requirement that staff members who use force to control an inmate submit a written report that the report must be “submitted by the end of the shift unless otherwise authorized by the sheriff or designee.”
105. DOC 350.23 Use of restraints is a new section – Creates the requirement for jail to have policies and procedures for the use of restraints that include the following components: restraint devices are never used as punishment and are not applied longer than necessary, and, when an inmate is mechanically restrained for non-routine purposes, a written report must be completed by the end of the shift unless otherwise authorized by the sheriff or designee. Documentation shall include the reason for and duration of use and corresponding wellness checks.
106. DOC 350.24 Discipline – Adds the requirement for the jail to have policies and procedures outlining inmate discipline and due process.
107. Amends the language found in current code by replacing the terms “penalty” or “penalties” with the terms “discipline” or “disciplines” and replaces the term “punitive” with “disciplinary.”
108. Removes listing of required elements to be included in staff member report on an inmate committing a major violation.
109. Adds the timeframe requirement for a due process hearing to be held within seven calendar days.
110. Adds that “The hearing officer or committee may consider the inmate’s mental illness, developmental disability or other emotional or mental disability as a mitigating factor in imposing discipline.”
111. Removes the requirement under paragraphs DOC 350.24 (2) (g) and (3) (d) 8. that records of the incident be removed from the inmate’s file if no violation is found to have occurred. However, the file must reflect the due process findings that no violation occurred.
112. DOC 350.25 Administrative confinement – Adds the requirement for the jail to have policies and procedures outlining the administrative confinement process.

113. Changes the timeframe for review of an inmate's progress in administrative confinement from "periodically" to "at least once every seven days."
114. DOC 350.26 Grievance process is a new section – Creates the requirement for the jail to have policies and procedures relating to an inmate grievance process.
115. DOC 350.27 Legal access is a new section – Creates the requirements for a jail to have policies and procedures that address inmates' access to the courts, their attorneys and legal materials.
116. DOC 350.28 Indigence is a new section – Creates the requirement for a jail to have policies and procedures to address indigence.
117. DOC 350.29 Mail – Adds the requirement for provision for notifying inmates when outgoing or incoming mail is withheld.
118. DOC 350.30 Visitation – Adds the requirement that attorney visits shall be allowed during reasonable hours, as long as security and daily routine are not unduly interrupted.
119. Creates the requirement for a jail to have policies and procedures related to search of inmates before and after each visit.
120. DOC 350.31 Programs and services is a new section – Creates the requirement for the jail to have policies and procedures relating to the provision of inmate programs and services.
121. DOC 350.32 Religious programming – Creates the requirement that inmates shall have the opportunity to participate in practices of their religious faith consistent with existing state and federal statutes.
122. Adds the requirement to include provision for conducting criminal background checks on members of a religious organization and clergy and provision of orientation and training on facility operations.
123. DOC 350.33 Recreation – Adds the requirement that, when and where available, at least one hour of daily exercise and recreation is outside the cell or outdoors.
124. DOC 350.34 Publications – Changed the title of this section from "Reading Materials" to "Publications."
125. DOC 350.35 Canteen – Adds the requirement that canteen shall be made available to eligible inmates and that access to canteen may be restricted by the facility based upon inmate classification or status.

**F. Summary of and Comparison with Existing or Proposed Federal Regulations that are intended to address the activities to be regulated by the proposed rule :**

There are no federal regulations which address the development, implementation, or monitoring of jail standards by the State of Wisconsin. However, the US Department of Justice issued standards implementing the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. 15601, et seq. Those standards regulate a number of areas which are also covered by chapter DOC 350, for example, housing in jails of minors who are arrested, charged or convicted of crimes as an adult. The federal standards went into effect on August 20, 2013.



**G. Comparison of similar rules in adjacent states (Illinois, Iowa, Michigan and Minnesota). The department does not note every difference between the department's proposal and an adjacent state's code but only those of interest or significance. In most cases there are no significant differences between the requirements of the adjacent states and those of Wisconsin as proposed.**

1. Illinois

Medical/Dental: Wisconsin statutes do not specifically require the provision of dental services to inmates in county jails. Both states include the provision of emergency dental care to inmates in their regulations. (IL: 20 ILAC s. 701.90 (b) 1. A.; WI: DOC 350.15 (5))

Inmate supervision: Illinois defines direct and indirect supervision. (20 ILAC s. 701.130 (a) (1) A & B) Illinois requires personal observation of inmates at least once every 30 minutes. The observation does not include observation by a monitoring device. (20 ILAC s. 701.130 (a) (2)) Wisconsin requires physical observation of each inmate who is in general population every 60 minutes at irregular intervals and each inmate who is on suicide watch every 15 minutes. (s. DOC 350.18 (1)) In addition, Illinois requires that dormitories housing more than 25 inmates must provide personal continuous observation. (20 ILAC s. 701.130 (a) (3)) Wisconsin has no similar provision. Illinois requires that special needs inmates are observed more frequently than the 30 minute standard. (20 ILAC s. 701.140 (c) (8)) Wisconsin has no similar provision.

Key control and use: Illinois requires full set of jail keys, separate from those in use, stored in a safe place. (20 ILAC s. 701.140 (h) (3)) Wisconsin requires that all keys must be stored in a secure area and accessible in the event of an emergency. (s. DOC 350.18 (8) (b))

Door and lock inspections: Illinois requires the regular and frequent inspection of locks, doors, bars, etc. (20 ILAC s. 701.140 (c) (1)) Wisconsin requires monthly inspections to determine if all jail doors and locks are in good working order. (s. DOC 350.18 (7))

Inmate counts: Illinois requires that counts be made and recorded at least three times daily. (20 ILAC s. 701.140 (g)) Wisconsin requires that the jail develop policies and procedures to establish a system by which inmate count occurs and that a count occur at least three times daily with a minimum of one count per shift. (s. DOC 350.18 (4))

Fire safety: Illinois requires that there be a fire extinguisher installed in the basement and on each floor for each 5,000 square feet of floor area. (20 ILAC s. 701.150 (a) (1)) Wisconsin code does not have a similar provision. However, Wisconsin requires that the jail conforms to applicable federal, state, and local fire safety codes, develops a fire safety policy in accordance with the local fire department recommendations, establishes an evacuation plan, provide annual fire safety training, documents an

annual fire inspection by the local fire department and performs monthly safety inspections which are also documented. (s. DOC 350.19)

Use of restraints/use of force: If restraints are used, staff must prepare a written report and the inmate's situation must be reviewed at least every 24 hours. (20 ILAC s. 701.160 (j) (intro) and (2)) Wisconsin does not specify a timeframe for reviewing an inmate's situation; however, the proposed code prohibits the use of restraints for longer than necessary. (s. DOC 350.23 (1))

Inmate discipline: Illinois requires a written report of the infraction be submitted to the jail administrator within 72 hours of the incident and prohibits the commencement of a disciplinary proceeding more than 8 days after the incident occurred or was discovered unless the inmate was unavailable. (20 ILAC s. 701.160 (a) (2)) The proposed Wisconsin code differentiates between major and minor violations and establishes different due process procedures for the two levels of violations. (s. DOC 350.24) For major violations, a written report must be submitted within 24 hours and the due process hearing held within seven calendar days unless waived. (s. DOC 350.24 (3) (b) and (d)) Illinois prohibits the imposition of penalty of more than 30 days of good behavior allowance for any one infraction. (20 ILAC s. 701.160 (a) (4) (F)) Illinois limits the segregation time which can be imposed for a minor violation to 72 hours but does not have a limit for a major violation. Wisconsin does not have a similar provision.

Administrative confinement: Illinois code does not address this issue.

Reporting: Illinois requires each jail to provide monthly population reports. (20 ILAC s. 701.30 (b)) Wisconsin requires a jail to maintain a register of inmates with similar information but not submit the register in report form on a monthly basis. (s. DOC 350.10 (1))

Admission procedures, orientation, release procedures: Illinois code has separate chapters to address each of these issues. (20 ILAC ch. 701.40, 701.50, 701.60) In addition, Illinois code has separate chapters on a number of additional issues, for example, food service, sanitation, inmate work, mail, telephone, visiting, programming, education, library, religious services, commissary, and recreation and leisure time. ((20 ILAC s. 701.110, 701.120, 701.170, 701.180, 701.190, 701.200, 701.210, 701.220, 701.230, 701.240, 701.250, and 701.260) Wisconsin code does not contain the specific requirements or mandates but does require each jail to develop a policy and procedure manual to address these issues. (For example, s. DOC 350.11 (food service), 350.12 (sanitation and hygiene), 350.29 (mail), 350.30 (visitation), 350.31 (programs and services), 350.27 (legal access), 350.32 (religious programming), 350.35 (canteen), and 350.33 (recreation) which addresses these types of issues.

## 2. Iowa

Medical/Dental: Wisconsin statutes do not specifically require the provision of dental services to inmates in county jails. Iowa provides necessary dental care. (IAC 201-50.15 (intro)) Iowa requires that an inmate affected by a chemical control agent must be offered a medical examination and appropriate treatment as soon as reasonable. (IAC 201-50.15 (5)) Wisconsin has no similar requirement. Iowa also provides in its rules that inmates are responsible for the cost of medical services and products. (IAC 201-50.15 (intro)) Section 302.38 (1), (2) & (4), Wis. Stats., provides similarly that an inmate may remain responsible for the cost of services and care whether provided in-house or at a hospital or clinic. Iowa also prohibits the provision of cosmetic or elective procedures. (IAC 201-50.15 (intro)) Section 302.38 (1), Wis. Stats., provides that an inmate shall receive appropriate needed medical care and treatment. Chapter DOC 350 does not address this issue.

Inmate supervision: Iowa requires 24 hour supervision of all inmates. (IAC 201-50.13 (2) a. (1)) Wisconsin statute requires that staff be present in a jail at all times there is a prisoner present in the jail. (s. 302.42, Stats.) Iowa requires that staff is either present in the confinement portion of the jail or able to hear inmates in a life-threatening or emergency situation. If staff is not present, a calling device to summon help will be provided. (IAC 201-50.13 (2) a. (2)) Iowa requires personal observation of individual inmates every hour. It also requires the personal observation of special needs inmates every 30 minutes. (IAC 201-50.13 (2) a. (3)) Both states permit the use of video monitoring but only as a supplement to physical observations, not a replacement. (IAC 201-50.13 (2) a. (3); s. DOC 350.18 (2))

Key control and use: Iowa requires that the jail administrator identifies the person who may have access to keys. (IAC 201-50.13 (2) d.) Wisconsin does not have a similar provision but requires an inventory of jail keys at every shift change. (s. DOC 350.18 (8) (a))

Door and lock inspections: Iowa code does not address this issue.

Inmate counts: Iowa code does not address this issue.

Fire safety: Iowa prohibits a jail from being occupied if a fire certificate issued by the state fire marshal or qualified local fire prevention authority has not issued a fire certificate within the last 18 months. (IAC 201-50.9 (2)) Wisconsin requires inspection every 12 months. (s. DOC 350.19 (5)) Iowa requires that there are fire extinguishers for every 3000 square feet of floor area, that all exits be equipped with emergency lighting, that each floor have at least two separate and distinct exits, that battery-operated fire alarm systems be tested monthly and electronic systems be tested at least annually, and that all hinged doors serving as required exits from an area designed for an occupancy in excess of 50 persons, or as part of a major remodeling project or as part of new construction, swing with exit traffic. (IAC 201-50.19 (5), (6), (7), (8), and (10)) Wisconsin does not have a similar requirements.

Use of restraints/use of force: The Iowa code is similar to the Wisconsin code.

Inmate discipline: Iowa provides that no inmate shall be allowed to have authority or disciplinary control over another inmate. (IAC 201-50.21 (1)) Wisconsin has no similar provision.

Administrative confinement: Iowa code does not address this issue.

Inmate activities: Iowa provides that an inmate who is held more than 7 days and is not involved in a work release program or other activities allowing outside activity shall be permitted exercise time. (IAC 201-50.18 (1)) The proposed code requires that an inmate must be provided one hour of out of cell time or outdoor time (when and where available) but otherwise only requires that the facility have policies and procedures to address the issue. (s. DOC 350.33)

### 3. Michigan

Medical/Dental: Michigan identifies specific elements of the health screening tool. (R 791.731) Section DOC 350.13 requires that the health screening tool be developed in conjunction with health care professional and identifies general areas of information. Michigan specifies the elements of a health appraisal of an inmate. (R 791.732) Section DOC 350.13 (5) requires a health appraisal which is completed by health care staff in accordance with protocols established by the responsible physician but does not specify the elements to be addressed.

Inmate supervision: Michigan code does not address this issue.

Key control and use: Michigan code does not address this issue.

Door and lock inspections: Michigan code does not address this issue.

Inmate counts: Michigan code does not address this issue.

Fire safety: Michigan requires that all housing areas and places of assembly have 2 exits. (R 791.704) Michigan requires quarterly inspection and testing of equipment. (R 791.709 (b)) Michigan requires that the specifications for facility furnishings include the fire safety performance requirements of the materials selected. (R 791.711) Michigan requires that a jail establish written policies and procedures and practice that govern the control and use of all flammable, toxic and caustic materials. (R 791.713) Michigan requires that the jail's evacuation plan contain specific information which is not required by Wisconsin. (R 791.715) The proposed Wisconsin code does not address these specific issues but requires that the fire safety plan be developed in cooperation with local fire officials.

Use of restraints/use of force: Michigan code is similar to the Wisconsin code.

Inmate discipline: Michigan code does not address this issue.

Administrative confinement: Michigan code does not address this issue.

#### 4. Minnesota

Medical/Dental: Minnesota has rule provisions which address health complaints (s. 2911.5800, subp. 8), frequency of sick call based on size of the jail (s. 2911.5800, subp. 9), development of written plan for personal hygiene (s. 2911.6300, subp. 1), including for those inmates who are unable to care for themselves, retraining of staff on the delivery of medications every 3 years (s. 2911.6600, subp. 3), and prohibition of the use of inmates as research subjects (s. 2911.6900). Wisconsin requires the development of policies and procedures to address a variety of medical issues but not necessarily those stated above. (s. DOC 350.13, 350.14, 350.15, 350.16, and 350.17) The proposal requires annual retraining of staff on the delivery of medications. (s. DOC 350.16 (2))

Inmate supervision: Minnesota requires that inmates are personally observed by custody staff at least once every 30 minutes at staggered intervals. More frequent observation is required for special need inmates. (s. 2911.5700, subp. 2)

Key control and use: Minnesota requires that keys which serve a critical security purpose are easily identifiable. (s. 2911.5400, subp. 1) Wisconsin does not have a similar provision.

Door and lock inspections: Minnesota requires weekly testing of security doors and gates and prohibits leaving locks to security doors or gates in inoperable or unsuitable condition. (s. 2911.5400, subp. 3 and 4) Wisconsin requires monthly inspection of doors and lock to determine that they are in good working order. (s. DOC 350.18 (7)) Minnesota also requires that all security doors, are kept locked, except to facilitate movement of employees, inmates, or visitors or in an emergency and that only one sally port door be opened at any point in time for entry or exit purposes. (s. 2911.5400, subp. 2) Wisconsin does not have a similar provision.

Inmate counts: Minnesota requires that formal counts shall be completed and documented at least once each 8 hours. (s. 2911.5700, subp.1)

Fire safety: Minnesota requires a weekly fire code and safety inspection. (s. 2911.7300 (4)) Wisconsin does not have a similar requirement.

Use of restraints/use of force: Minnesota limits the use of restraints to prevent escape during transfer, for medical purposes at the direction of a physician or psychologist, to prevent self-harm or damage to property, or by order of the jail administrator. (s. 2911.3000, subp.2) The proposed code provision is similar but also includes as a reason to apply restraints prevention of death or bodily injury to the inmate, a staff member, or another inmate. (s. DOC 350.22 (1))

Inmate discipline: Minnesota provides that the status of an inmate placed on disciplinary segregation subsequent to a due process hearing shall be reviewed by the jail administrator or designee at least once every 30 days and that as part of the

review process the jail administrator or designee shall visit the inmate at least once every seven days. (s. 2911.2850, subp.3, E)

Administrative confinement: Minnesota code is similar to the proposed Wisconsin code. (s. 2911.2850, subp.3, E; s. DOC 350.25)

Inmate activities, visitation, mail, telephone access, food service, and canteen: Minnesota code is similar to the proposed code. However, there are a few differences. For example, Minnesota code requires one hot meal per day. (s. 2911.4700) Wisconsin code requires two hot meals per day. (s. DOC 350.11 (6)) Minnesota code provides for telephone access while Wisconsin code does not specifically address the issue. (s. 2911.3400)

#### **H. Summary of the factual data and analytical methodologies that DOC used in support of its determination of the rule's fiscal effect on small businesses under s. 227.114, Stats.:**

During 2011, the Department began reviewing detention standards in place within other states, including Illinois, Iowa, Michigan, Minnesota, as well as U.S. Immigration and Customs Enforcement. Standards recommended by the American Correctional Association, as well as the National Commission for Correctional Health Care, widely recognized accrediting organizations, were also reviewed. The Department formed a multi-jurisdictional workgroup, comprised of officials from the Wisconsin Department of Corrections, Department of Justice, local Sheriffs and jail administrators, as well as members from mental health advocacy groups, who were tasked with review of existing mental health detention standards and providing recommendations.

After review of relevant standards and recommendations, DOC submitted a draft of updated standards to Sheriffs and jail administrators of all 72 counties, the Badger State Sheriff's Association, and the Wisconsin Counties Association. The Department met with Sheriffs and jail administrators at regional locations throughout the state to receive feedback. Feedback from local officials was taken into consideration, and in some cases, draft standards were modified. Consideration was given to minimize the fiscal effect of revised standards, while targeting performance levels reflective of detention best-practices.

The proposed rule change is expected to have no adverse impact on small businesses, as it relates to construction and operational standards for county jails. The Department determined this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the state.

**I. Any analysis and supporting documents that DOC used in support of DOC's determination of the proposed rule's effect on small businesses or that was used when the DOC prepared an economic impact report:**

A review of the revised chapter by Department staff as well as local government officials was conducted and it was determined the revised rule would not adversely modify reporting requirements, schedules or deadlines, or operational standards for small businesses. New standards for food service would be in place for county jails, requiring three meals a day, two of which would be hot (exceptions may occur provided basic nutritional goals are met). Private food service providers were consulted regarding these new requirement. Feedback was received indicating this requirement may be more feasible than current practice in some jails as preparing and serving hot meals is typically considered more cost effective and less labor intensive than preparing and serving cold meals.

**J. Effect on small businesses:**

The proposed rule is not anticipated to have any significant adverse impact upon small businesses as defined in s. 227.114 (1), Wisconsin Statutes.

**K. Agency contact person (including email and telephone):**

Kathryn R. Anderson  
Chief Legal Counsel  
3099 E. Washington Avenue  
P.O. Box 7925  
Madison, WI 53707-7925  
(608) 240-5049  
FAX (608) 240-3306  
[Kathryn.Anderson@wisconsin.gov](mailto:Kathryn.Anderson@wisconsin.gov)

**L. Place where comments are to be submitted and deadline for submission:**

Comments are to be submitted by June 28, 2013 to:

Kathryn R. Anderson  
Chief Legal Counsel  
3099 E. Washington Avenue  
P.O. Box 7925  
Madison, WI 53707-7925  
(608) 240-5049  
FAX (608) 240-3306  
[Kathryn.Anderson@wisconsin.gov](mailto:Kathryn.Anderson@wisconsin.gov)

**FISCAL ESTIMATE:** See attached.

**ANY STATEMENT, SUGGESTED CHANGES, OR OTHER MATERIAL SUBMITTED TO THE AGENCY BY THE SBRRB.**

Not applicable.

**A COPY OF ANY ECONOMIC IMPACT ANALYSIS PREPARED BY THE AGENCY.**

See attached.

**A COPY OF ANY REVISED ECONOMIC IMPACT ANALYSIS PREPARED BY THE AGENCY.**

See attached.

**LEGISLATIVE COUNCIL STAFF CLEARINGHOUSE REPORT:**

See attached.

**STATEMENT OF THE BASIS AND PURPOSE OF THE RULE INCLUDING HOW THE RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

The department of corrections proposes to make modifications and additions to DOC 350, (Jails) for the following purposes:

1. The department is seeking revision of DOC 350 to reflect changes in law and correctional practice and to clarify existing standards. Since the last revision, it became apparent that clarification of many sections was necessary.
2. More details and a listing of significant changes can be found in the Plain Language Analysis Section of this document. (See pages 24 through 32.)

**A SUMMARY OF PUBLIC COMMENTS TO THE PROPOSED RULE AND THE AGENCY'S RESPONSE TO THOSE COMMENTS, AND AN EXPLANATION OF ANY MODIFICATION MADE IN THE PROPOSED RULE AS A RESULT OF PUBLIC COMMENTS OR TESTIMONY RECEIVED AT A PUBLIC HEARING:**

**A. Summary of comments and the department's response to those comments:**

1. Request that the definition of "privileged mail" under s. DOC 350.03 (18) be modified so that privileged mail only applies to attorneys who are assigned or representing the inmate.



**DOC response:** The definition cannot be limited as requested. An inmate may be attempting to retain an attorney. Those communications need to be protected, as well.

2. Request for clarification under s. DOC 350.05 (6) (c) the meaning of “detention strength bed.”

**DOC response:** The term is well understood in the corrections field to mean that the bunk or bed cannot be readily destroyed or damaged.

3. Request for clarification of the restriction for using day rooms for sleeping purposes for newly constructed jails.

**DOC response:** The department removed the provision. However, the department changed the definition of “day room” to read: “Day room” means an area in a jail that is readily accessible to inmates, contiguous to a group of cells or dormitory, and is designed and used for leisure or recreation activities but not for sleeping purposes.

4. Request for clarification whether the change in requirement from inmates being provided a “secured area” for personal property to an “area” for under s. DOC 350.05 (6) (d) applied to existing facilities, as well.

**DOC response:** The department removed the word “secured” as a modifier for existing jails under s. DOC 350.06 (6).

5. Request that the use of holding rooms under s. DOC 350.05 (7) (a) should be expanded; the current language was too restrictive.

**DOC response:** The department modified the provision as follows: “Holding rooms are intended to be used for admission, release and investigative purposes.”

6. Comment was received that the insertion of “classification” into the criteria under s. DOC 350.05 (7) (b) is difficult to implement since holding rooms are used to hold arrestees before they have gone through the classification process.

**DOC response:** The department removed the provision.

7. Question whether the space for multi-purpose room for new construction under s. DOC 350.05 (9) was requiring too much space.

**DOC response:** The department believes that best correctional practices is served by this requirement which provides that there be a multipurpose room or space based on jail occupancy.

8. Requested clarification of the criteria for obtaining a variance under s. DOC 350.08 (2).

**DOC response:** The department explained the process to the satisfaction of the questioner.

9. Requested removal of the word “each” from s. DOC 350.09 (1) (c), since not all policies should be shared with inmates due to security concerns.

**DOC response:** The department agreed with the comment.

10. Requested clarification whether the reporting requirement under s. DOC 350.10 (3) (a) 2. applied only to in-custody inmates.  
**DOC response:** The department concluded no further clarification was necessary.
11. Requested clarification of the word “promptly” in s. DOC 350.10 (3) (b).  
**DOC response:** The department concluded no further clarification was necessary.
12. Question whether the continued requirement under s. DOC 350.11 (6) for three meals per day, two of which must be “hot” was necessary.  
**DOC response:** The department did not change this long standing requirement.
13. Questions whether the requirement under s. DOC 350.11 (13) that persons who work in food service need to clean under their fingernails since most will be wearing gloves.  
**DOC response:** The department did not change this long standing requirement.
14. Question whether the requirement under s. DOC 350.12 (9) that all issued clothing items be laundered twice weekly was necessary.  
**DOC response:** The department did not modify the provision. The question was with the wording of the provision, not the frequency of laundering.
15. Question raised about the requirement under s. DOC 350.12 (10) that vermin and pests are to be controlled with an effective and documented program.  
**DOC response:** The department clarified the requirement during the public hearing.
16. Question whether protocols for the health appraisal under s. DOC 350.13 (5) must be established by a physician.  
**DOC response:** The department left in place the requirement that protocols followed by health services staff be established by the responsible physician.
17. Request for clarification of the requirement under s. DOC 350.14 (intro.) that there be sufficient equipment, material, space and supplies for the performance of health care services in a confidential manner.  
**DOC response:** The department did not specify requirements on space, equipment, etc. However, there must be adequate space, equipment, etc. for the services being provided.
18. Request for clarification of the requirement under s. DOC 350.15 (3) for a listing of the names, addresses, and telephone numbers of health care providers.  
**DOC response:** The department discussed with the questioner how inclusive the list had to be.
19. Request for clarification of the requirement under s. DOC 350.15 (9) that inmate health service requests be processed on a daily basis.  
**DOC response:** The department explained the importance from a liability standpoint, as well as providing care and treatment to inmates, that health service requests be processed on a daily basis.

20. Request for clarification of the requirement for the maintenance of agreements for health care services under s. DOC 350.15 (13).  
**DOC response:** The department clarified what it meant by maintenance of contracts for health care services.
21. Request for clarification of the requirement under s. DOC 350.15 (16) to include provision for the detoxification of inmates and management of intoxicated inmates.  
**DOC response:** The department discussed the rationale and necessity for this provision.
22. Request for clarification of the requirement under s. DOC 350.16 (2) that jail staff who deliver medications receive initial and annual update training.  
**DOC response:** The department explained the liability issues involved with untrained or inadequately trained staff delivering medications.
23. Concern about the requirement that there be immediate notification to supervisory staff if an inmate is identified as a suicide risk under s. DOC 350.17 (3) (a).  
**DOC response:** The department discussed the rationale for the immediate notification under these circumstances.
24. Request for clarification of s. DOC 350.17 (4) as to which staff was to be trained on the issue of an inmate's level of suicide risk.  
**DOC response:** The department explained the need to identify staff who is trained in assessing an inmate's risk of suicide.
25. Question whether the requirement under s. DOC 350.17 (10) (g) for a physical signature appropriate as jails go to electronic records.  
**DOC response:** The department changed the wording of the provision to remove the physical signature requirement.
26. Question whether the requirement under s. DOC 350.17 (12) for debriefings and support services was appropriately in the administrative code.  
**DOC response:** The department clarified that the briefings were for staff but kept the requirement in the code.
27. Question whether the requirement under s. DOC 350.17 (13) for an operational review following a suicide or significant suicide attempt had sufficient clarity.  
**DOC response:** The department discussed with the questioner the issue and left the requirement as it was.
28. Question was raised about the frequency of checks of inmates under s. DOC 350.18 (1) (a).  
**DOC response:** The department discussed the liability issues if there were less frequent checks.
29. Question whether the requirement under s. DOC 350.18 (8) (a) for the inventorying of keys at each shift change was necessary.

**DOC response:** The department discussed the importance of key control in a locked secure environment.

30. Question was asked as to what was the source of the language found in s. DOC 350.21, inmate classification.

**DOC response:** The department discussed the statutory classification requirement and the national standards relating to inmate classification.

31. Question as to the requirement under ss. DOC 350.24 (2) (g) and DOC 350.24 (3) (d) 8. for the removal from inmate's file of investigation materials when investigation finds no violation occurred.

**DOC response:** The department changed the provision to reflect the concerns by the jails.

32. Question whether the requirement under s. DOC 350.25 (2) for a review of a decision to place an inmate into administrative confinement within 24 hours of placement is reasonable given staffing patterns.

**DOC response:** The department discussed the importance of supervisory oversight in a decision to place an inmate into administrative confinement status.

33. Question as to the reason for requiring under s. DOC 350.25 (3) that the status of administrative confinement be reviewed at least every seven (7) days.

**DOC response:** The department discussed the importance of regular review of the status of inmates in administrative confinement.

34. Question as to the interpretation of the word "reasonable" in s. DOC 350.30 (1), relating to attorney visits.

**DOC response:** The department discussed the importance of an inmate's ability to access his or her attorney.

35. Question as to the requirement under s. DOC 350.33 (3) that inmates be offered at least one hour of daily exercise and recreation outside the cell or outside.

**DOC response:** The questioner was reminded that the requirement is modified by the phrase "when and where available."

**B. Explanation of modifications made to the proposed rule in response to public comments received:**

1. Section DOC 350.05 (4): the department removed the proposed restriction on using day rooms for sleeping purposes. However, the department changed to definition of "day room" to exclude its use for sleeping purposes.
2. Section DOC 350.06 (6) (d): the department removed the word "secured" before the word "area."

3. Section DOC 350.05 (7) (a): the department modified the provision as follows: “Holding rooms are intended to be used for admission, release and investigative purposes.”
4. Section DOC 350.05 (7) (b): the department removed the requirement regarding classification of persons held in holding rooms.
5. Section DOC 350.09 (1) (c): the department removed the word “each” as a modifier to the word “policy.”
6. Section DOC 350.17 (10) (g): the department changed the wording of the provision to read: “Written documentation from the mental health professional removing an inmate from a suicide watch including name, date and time.”
7. Section DOC 350.24 (2) (g) and 350.24 (3) (d) 8. were changed to permit retention of discipline records in an inmate’s file, even when no violation was found to have occurred. However, there is a requirement that the due process records shall reflect those findings.

**LIST OF PERSONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE PROPOSED RULE AT A PUBLIC HEARING.**

**A. Two public hearings were held on the rule:**

<b>June 25, 2013</b>	<b>10:00 a.m.</b>	<b>State Office Building, Conference Room 45 819 North 6<sup>th</sup> Street, Milwaukee, WI</b>
<b>June 26, 2013</b>	<b>10:00 a.m.</b>	<b>Portage County Courthouse Annex Conference Room 1 1462 Strongs Avenue, Stevens Point, WI</b>

**B. List of persons who appeared or registered for or against the proposed rule at the public hearings:**

In person:

Milwaukee: No one appeared at the hearing

Stevens Point: Capt. Lee Beckman, Jail Administrator, Adams County  
 Dan Greenwood, Jail Administrator, Price County  
 Darryl Kuhl, Jail Administrator, Columbia County  
 Corey Nelson, Jail Administrator, Portage County  
 Brian Rauch, Price County  
 James Stilson, Assistant Jail Administrator, Columbia County  
 Mark Twombly, Lieutenant, Dane County

Persons who submitted written comments:

No written comments were received.

**EXPLANATION OF ANY CHANGES THAT HAVE BEEN MADE TO THE RULE SUMMARY OR THE FISCAL ESTIMATE:**

**Changes to the Rule Summary:**

The department made changes to the following paragraphs in the Rule Summary, Plain Language Analysis:

14. Section DOC 350.05 (4): the department removed the proposed restriction on using day rooms for sleeping purposes. However, the definition of “dayroom” was changed to read: “‘Dayroom’ means an area in a jail that is readily accessible to inmates, contiguous to a group of cells or dormitory, and is designed and used for leisure or recreation activities but not for sleeping purposes.” See s. DOC 350.03 (6).
20. Section DOC 350.06 (6) (d): the department removed the word “secured” before the word “area.”
21. Clarifies that holding rooms are intended to be used for admission, release and investigative purposes. Removes requirement that holding rooms are designed for persons of the same classification. (See ss. DOC 350.05 (7) and 350.06 (7).)
33. Removes the word “each” from s. DOC 350.09 (1) (c).
80. Section DOC 350.17 (10) (g): the department changed the wording of the provision to read: “Written documentation from the mental health professional removing an inmate from a suicide watch including name, date and time.”
93. DOC 350.19 (2) (b)—re-inserted the requirement that each jail shall have and shall properly maintain fire alarms, smoke and thermal detectors, fire extinguishers, and self-contained breathing apparatuses which operate for at least 30 minutes. The requirement is in the current rule. There was a request to re-insert the language for clarity of expectations.
111. Removes the requirement under paragraphs DOC 350.24 (2) (g) and (3) (d) 8. that records of the incident be removed from the inmate’s file if no violation is found to have occurred. However, the file must reflect the due process findings that no violation occurred.

**Changes to the Fiscal Estimate:**

There were no substantive changes to the fiscal estimate and economic impact analysis.

**RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS IN THE CLEARINGHOUSE REPORT:**

1. Statutory Authority.

Section 302.365 (1), Stats., which is cited by the agency as statutory authority, requires the agency to establish, by rule, program standards for jails. The standards must include:

(1) a policy and procedure manual, including policies and procedures for screening prisoners for medical illnesses or disabilities, mental illnesses, developmental disabilities, and alcohol or other drug abuse problems; identification of the facilities and programs that will be provided for long-term prisoners; and policies and procedures for providing educational programming for prisoners under 18 years of age; and (2) crisis intervention services.

It appears that the proposed rule may not contain all the standards required in s. 302.365 (1), Stats. Should the standards in s. 302.365 (1), Stats., be included as part of this proposed rule, or are they contained in other chapters of the administrative code? If the standards are in other chapters, it might be helpful to reference those provisions in the proposed rule, perhaps in s. DOC 350.09.

**Department of Corrections Response:** Accepted.

Sections DOC 350.13 through 350.17 address the health care and treatment needs of inmates, including medical and mental health and crisis intervention. However, the department added subsection DOC 350.31 (5) which requires a jail to address educational programming for inmates under the age of 18 years. With regard to the issue of long terms versus short term inmates and the availability of services, programming services are to be made available to all inmates, regardless of the length of stay.

2. Form, Style and Placement in Administrative Code.

- a. At the beginning of the text of the rule, there should be a SECTION treatment that states the following: “SECTION 1. Chapter DOC 350 is repealed and recreated to read:”

**Department of Corrections Response:** Accepted.

- b. In s. DOC 350.09 (2) (a) (intro.), the paragraph does not introduce the subsequent subdivisions. A phrase such as “using the following procedure:” should be inserted at the end of sentence. This comment also applies to ss. DOC 350.15 (15) (intro.), 350.17 (3) (intro.), 350.24 (3) (d) (intro.), and 350.28 (intro.).

**Department of Corrections Response:** Accepted.

- c. The effective date section should be labeled as SECTION 2 and should follow the format outlined in s. 1.02 (4), Manual.

**Department of Corrections Response:** Accepted.

3. Conflict with or duplication of existing rules.

N/A

4. Adequacy of References to Related Statutes, Rules and Forms.

- a. In the plain language analysis, in item 15., “DOC” should be inserted before each of the citations.

**Department of Corrections Response:** Accepted.

- b. In s. DOC 350.03 (14), “ss.” Should be replaced with “s.”

**Department of Corrections Response:** Accepted.

- c. In s. DOC 350.03 (15), it appears that the citation to s. 303.17, Stats., is unnecessary.

**Department of Corrections Response:** Accepted.

- d. In s. DOC 350.05 (3) (e), “In this subsection” should be replaced with “In this paragraph.” This comment also applies to sub. (6) (f) and s. DOC 350.06 (3) (e) and (6) (f).

**Department of Corrections Response:** Accepted.

- e. In s. DOC 350.09 (1) (a), “ss.” Should be inserted before “DOC 350.11” and the dash should be replaced with “to.” Also, in sub. (2) (c), “section” should be replaced with “subsection.”

**Department of Corrections Response:** Accepted.

- f. In s. DOC 350.14 (2), “Ch.” should not be capitalized.

**Department of Corrections Response:** Accepted.

- g. In s. DOC 350.15 (15) (b), a comma should be inserted after “Stats.”

**Department of Corrections Response:** Accepted.

- h. In s. DOC 350.24 (3) (d) 1., “(6) should be replaced with “6.”. This comment also applies to subd. 8.

**Department of Corrections Response:** Accepted.

5. Clarity, Grammar, Punctuation and Use of Plain Language.

- a. In the plain language analysis: Comments (1) through (6).

**Department of Corrections Response:** Accepted.



- b. Under the comparison of similar rules in adjacent states, in the discussion of telephone access in Minnesota, “provide” should be replaced with “provides.”

**Department of Corrections Response:** Accepted.

- c. In the table of contents for ch. DOC 350, the title of s. DOC 350.08 should be replaced with “Variance.”

**Department of Corrections Response:** Accepted.

- d. In s. DOC 350.03 (12), it would be helpful to include semi-colons to separate the items in the list.

**Department of Corrections Response:** Accepted.

- e. In s. DOC 350.05 (1), “[effective date of new rule]” should be replaced with “the effective date of this section ...[LRB inserts date].” This comment also applies to ss. DOC 350.06 (title) and (1) and 350.19 (7).

**Department of Corrections Response:** Accepted.

- f. In s. DOC 350.05 (2) (intro.), it may be clearer to rewrite the beginning of the sentence as: “Furniture and fixtures used in a jail shall be made of detention strength material...” This comment also applies to s. DOC 350.06 (2) (intro.). Also, in s. DOC 350.05 (2) (f), “threshold” should be plural.

**Department of Corrections Response:** Accepted.

- g. In s. DOC 350.05 (3) (b), a space should be inserted between “s.” and “DOC.” In par. (d), “In addition,” should be deleted. In par. (f), “will” should be replaced with “shall.”

**Department of Corrections Response:** Accepted.

- h. In s. DOC 350.05 (4) (b), it appears that “present” or “who has access to the dayroom” should be inserted at the end of the sentence.

**Department of Corrections Response:** Accepted.

- i. In s. DOC 350.06 (6) (e), “light” should be inserted before “enough for security checks.”

**Department of Corrections Response:** Accepted.

- j. In s. DOC 350.06 (2) (e), “hooks” should be inserted after “Clothing.”

**Department of Corrections Response:** Accepted.

- k. In s. DOC 350.06 (4) (a), it is not clear how the requirements referenced for dayrooms in a dormitory relate to the provisions of this paragraph.

**Department of Corrections Response:** Accepted.

- l. In s. DOC 350.06 (13) (a), should “sill” be replaced with “threshold?”

**Department of Corrections Response:** Accepted.

- m. In s. DOC 350.07 (8), “1/4” should be replaced with “1/4 inch.”

**Department of Corrections Response:** Accepted.

- n. In s. DOC 350.09 (1) (b), the sentence should end with a period.

**Department of Corrections Response:** Accepted.

- o. In s. DOC 350.11 (title), “Service” should not be capitalized.

**Department of Corrections Response:** Accepted.

- p. In s. DOC 350.11 (11) (18), “are” should be deleted.

**Department of Corrections Response:** Accepted.

- q. In s. DOC 350.13 (5), who is required to have completed the previous appraisal? The rule should specify.

**Department of Corrections Response:** Accepted.

- r. In s. DOC 350.15 (14), “Use of” should be inserted at the beginning of the sentence. In addition, the dash should be replaced with “under.”

**Department of Corrections Response:** Accepted.

- s. In s. DOC 350.15 (15) (d), is “bio hazardous waste” the correct phrase. Does this provision refer to medical waste?

**Department of Corrections Response:** The phrase is correct. The department is following the verbiage of the American Corrections Association Standards Manual on communicable disease and infection control, 1-Corr-4C-06 (2010).

- t. In s. DOC 350.16 (8), “will” should be replaced with “shall.”

**Department of Corrections Response:** Accepted.

- u. In s. DOC 350.17 (12), for whom must access to debriefing and support services be made available?

**Department of Corrections Response:** Accepted. The department clarified that the services were to be accessible to staff.

- v. In s. DOC 350.18 (7), would it be clearer to replace “including” with “to?”

**Department of Corrections Response:** Accepted.

- w. In s. DOC 350.18 (8) (a), “are: should be replaced with “shall be.” In par. (b), “must should be replaced with “shall.”

**Department of Corrections Response:** Accepted.

- x. In s. DOC 350.19 (4), it is not clear what it means to practice and simulate training. Perhaps “training” should be replaced with “evacuation and other procedures.”

**Department of Corrections Response:** Accepted.

- y. In s. DOC 350.20 (1), the second sentence should be rewritten. One option is: “The joint determinations shall be in writing and signed by the representatives of the county board and the sheriff and shall be filed with the department.”

**Department of Corrections Response:** Accepted.

- z. Section DOC 350.20 relates to double celling. In the current section relating to double celling, s. DOC 350.07, there is a requirement that, except in an emergency, inmates must be allowed out of their cells at least 14 hours per day. [s. DOC 350.07 (4).] This requirement does not appear to be included in the proposed rule. Should it be included in the proposed rule?

**Department of Corrections Response:** The department intentionally removed the requirement because the provision was unenforceable.

- aa. In s. DOC 350.21 (intro.), in the second sentence, “custody status, housing assignment, and develop eligibility criteria” should be replaced with “custody status and housing assignment and shall develop eligibility criteria.” In sub. (3), is this review different than the appeal process reference in sub. (1)?

**Department of Corrections Response:** Accepted. The appeal process under sub. (1) refers to an inmate’s ability to challenge the classification decision. The review process under sub. (3) is independent of the appeal process.

bb. In s. DOC 350.22 (2), the sheriff's" should be inserted before "designee." This comment also applies to s. DOC 350.23 (2).

**Department of Corrections Response:** Accepted.

cc. In s. DOC 350.24 (1), in the second sentence, "imposed" should be deleted. In sub. (2) (a), "or disciplines" could be deleted and, instead, ", or any combination of these consequences" could be inserted at the end of the last sentence. This comment also applies to sub. (3) (a). In sub. (2) (b), it appears that "potential" could replace "contemplated." Finally, in sub. (3) (d) 4., what is an "adequate substitute aide?"

**Department of Corrections Response:** Accepted. The term "adequate substitute aide" is used to indicate that a person is used to assist the inmate. However, the person might not be a jail staff member.

dd. In s. DOC 350.25 (intro.), the quotation mark for "administrative confinement" should be fixed. In sub. (1) (a), the sentence should end with a period.

**Department of Corrections Response:** Accepted.

ee. In s. DOC 350.31 (1), who authorizes the community resources, contract providers, and volunteers? In sub. (4), a phrase such as "for all volunteers" should be inserted at the end of the sentence. This comment also applies to s. DOC 350.32 (5).

**Department of Corrections Response:** Accepted.

6. Potential Conflicts with, and Comparability to, related Federal Regulations.

N/A

7. Compliance with Permit Action Deadline Requirements.

N/A.

**FINAL REGULATORY FLEXIBILITY ANALYSIS:** The department of corrections has determined that the rule will not have a significant economic impact on a substantial number of small businesses since the rule does not regulate small businesses as that term is defined in s. 227.1145, Stats.