

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Repeal Modification

2. Administrative Rule Chapter, Title and Number

DOC 346

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

7/5/24

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

This rule establishes minimum standards for the approval, design, construction, maintenance, and operations of youth detention facilities and youth portions of county jails and the youth detention portion of a secured residential care center for children and youth. Minimum standards established in this rule include department review and approval of plans and specifications to build or remodel a facility. The rule also establishes standards for the physical environment of new or substantially remodeled youth detention facilities, standards for the physical environment of juvenile detention facilities constructed or substantially remodeled on or after November 1st, 2010 but prior to the promulgation of this rule, and standards for the physical environment of juvenile detention facilities constructed on or after October 1st, 1994 but prior to November 1st, 2010.

This rule also establishes standards for admission and screening of youth, classification of youth upon admission, and release of youth. The rule establishes minimum standards for staffing plans and staff training. Moreover, this rule establishes minimum standards for a variety of operations for these facilities. These include food service and nutrition, health and mental health care, clothing, towels and bedding, commissary services, mail, communication, visitation, publications, religious practices, legal access, education, leisure activities, recreation and exercise, and hygiene and sanitation. This rule also establishes minimum standards for a grievance procedure for youth.

Additionally, this rule establishes minimum standards for security practices of facilities including key control, weapons control, tool control, searches, door and lock inspections, facility repair, and fire safety and emergency preparedness.

Requirements for the observation of youth, administrative confinement, use of force and the use of mechanical restraints are also established in this chapter. The rule establishes further requirements for behavior management of youth including discipline, disciplinary procedures and review of behavior management.

Finally, the rule establishes a variety of standards for the youth portion of a county jail, for the collocation with a secured residential care center for children and youth and the collocation with an adult facility.

5. Describe the Rule's Enforcement Provisions and Mechanisms

DOC has various responsibilities imposed by statute related to local government detention facilities, including promulgating rules, standards, and regulations regarding facility construction and operations.

6. Repealing or Modifying the Rule Will Impact the Following
(Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Small Businesses

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

This rule does not regulate small businesses as that term is defined in s.227.114, Stats, and therefore DOC has determined the changes will not have a significant economic impact on a substantial number of small businesses. DOC's response to Section 13 outlines the potential impacts it may have on county governments.

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8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

During the preliminary public hearing on the statement of scope, one member of the public commented. This comment expressed a desire for detention facilities to look different than Type 1 juvenile facilities and for detention facilities to be spaces where young people can get their needs, such as education, met while still meeting standards.

A public hearing on the proposed rule order will be held on October 11th, 2024.

9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe: N/a

10. Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

11. Chapter 20, Stats. Appropriations Affected

None

12. Fiscal Effect of Repealing or Modifying the Rule

- No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

The proposed rule revisions could have impacts on county budgets, depending on whether each county detention facility already meets the new standards and requirements in the proposed rules, or would have to make operational and other changes to meet those standards. Some specific examples or modified or new requirements are listed below:

- The proposal includes new physical plant requirements (such as providing a dedicated quiet space for youth, and providing dedicated outdoor recreation space for youth), which would impact a county if it were building a new detention facility or substantially remodeling an existing facility, as it could potentially require additional construction or other changes.
- The proposal increases annual security staff training requirements from at least 8 hours to at least 16 hours.
- The proposal requires the completion of annual kitchen inspections by a qualified, independent outside source, to document that the food service area of detention facilities meet applicable health and safety codes. This is an existing requirement for county jails (many of which pay for this service), and this proposal would expand it to apply to all local government detention facilities.
- The proposal mandates that all youth in detention facilities receive a full healthcare assessment by a qualified healthcare professional within 7 days of admission.
- The proposal requires detention facilities to schedule access to on-site mental healthcare services.
- The proposal prohibits detention facilities from charging youth to communicate (phone calls, etc.).
- This proposal requires each local government detention facility to have and properly maintain self-contained breathing apparatuses.

For these and other proposed changes, if a detention facility does not already meet the proposed requirement, achieving compliance may result in an economic impact to the applicable local government.

The proposal also eliminates some existing standards, which have some impact on facility operations and staff time, such as no longer requiring annual meetings of stakeholders and no longer requiring staff to have a medical examination at the

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time of their initial employment. Were a county to change its operations due to the repeal of these standards, there could also be an economic impact.

14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No

15. Long Range Implications of Repealing or Modifying the Rule

As outlined in Section 13, the proposed rule modifications either revise existing regulations related to county detention facilities or add new regulations. The long-term implications of these changes will vary county-by-county depending on whether each county's current practices already align with the proposed rule changes or would require operational and/or facility modifications.

16. Compare With Approaches Being Used by Federal Government

There are no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

17. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

All adjacent states have similar rules that establish minimum standards for design or construction or both, maintenance and operations of facilities where youth are held.

a. Illinois: Illinois administrative code specifies standards for the operations of its adult, juvenile and community service divisions of the Department of Corrections. Ill. Admin. Code tit. 20. For food service operations, menus shall meet minimum recommended dietary allowances and in juvenile facilities at least four servings of milk shall be offered each day. Ill. Admin Code. tit. 20 § 502.20. Standards for clothing, bedding and linens include that laundry services shall be available on a scheduled weekly basis, clean linen shall be provided on a scheduled weekly basis and bedding suitable for weather and temperature shall be provided. Ill. Admin. Code tit. 20 § 502.210, 502.220 and 502.330.

Illinois administrative code also delineates standards for design, construction, maintenance and operations of county juvenile detention facilities. Ill. Admin. Code tit. 20 § 2602. For design and construction of these detention facilities, the Department must approve all remodeling and new construction plans. Ill. Admin. Code tit. § 2602.270. Illinois administrative code also outlines several rules related to the operation of county juvenile detention facilities including food service, clothing, personal hygiene and grooming, sanitation and safety. Ill. Admin. Code tit. § 2602.

b. Iowa: Iowa administrative code specifies physical requirements for jail facilities. The physical requirements specified vary for existing facilities, new and remodeled facilities after June 30, 1984, new and remodeled facilities after September 12, 2001 and for new and remodeled facilities after December 28, 2005. These requirements include standards for several different aspects of the facility including building codes, cells, lighting, mirrors, and storage. 201 IAC 50.4. Additional requirements for jails include standards for cleanliness and hygiene, food service and communication.

Iowa administrative code also specifies standards for nonsecure holds for juveniles in jail facilities. These standards include requirements for the supervision of juveniles in nonsecure holds, medical care and treatment, communications, and safety and sanitation. 201 IAC 50.24.

c. Michigan: Michigan administrative code establishes standards for the administration of county jails or lockups. The administrative code delineates standards for the design and construction of the facility including standards for the proper positioning of exits, compliance with fire safety codes, and physical requirements for detoxification and holding cells. This administrative code also establishes standards for the operation of county jails or lockups. MCL R 791. This administrative code creates rules for the use of force in these facilities, for dietary allowances and special diets, for sanitation inspections, and for health care. MCL R 791.

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d. Minnesota: Minnesota administrative rule establishes standards for the licensing of providers of residential care and treatment or detention or foster care services for children in out-of-home placement. Minn. R. 2960.0100. These rules include physical environment and equipment and physical plant standards. Each facility must provide a physical environment that provides for the comfort, privacy, and dignity of residents, must ensure that food services, storage, housekeeping, laundry and maintenance are operated on a consistent, healthy basis and must provide a classroom atmosphere that is conducive to learning and meets the resident's special physical, sensory, and emotional needs. Minn. R. 2960.0110.

Additionally, new secure juvenile certified correctional group residential facilities must meet the minimum physical plant construction standards developed by the Department of Corrections. Minn. R. 2960.0220(1). New construction of nonsecure residential facilities must meet state and local building codes and the physical plant requirements in Minn. R. 2960.0120. Correctional group residential construction plans and schematics must be reviewed and approved by the Department of Corrections before the license holder allows bids for construction. Minn. R. 2960.0220(2).

Minnesota administrative rule also establishes standards of the operations of these facilities. For example, administrative rule establishes that residents have a right to daily bathing or showering and reasonable use of materials, including culturally specific appropriate skin care and hair care products or any special assistance necessary to maintain an acceptable level of personal hygiene. Minn. R. 2960.0050. Residents also have a right to adequate medical care, a right to nutritious and sufficient meals and sufficient clothing and housing and a right to live in clean, safe surroundings. Minn. R. 2900.0050(1).

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