

**WISCONSIN DEPARTMENT OF CORRECTIONS
PROPOSED RULE MAKING ORDER**

INTRODUCTORY CLAUSE

The statement of scope for this rule was approved by the Governor on April 21, 2022, published as Scope Statement No. SS 036-22 in Register No. 797A1 on May 2, 2022, and approved by Secretary Kevin Carr on July 5, 2022.

The Wisconsin Department of Corrections proposes an order to repeal and recreate Chapter DOC 346.

RULE SUMMARY

1. Statutes interpreted:

ss. 301.36, 301.37, 938.209, Stats.

2. Statutory authority to promulgate the rule: ss. 227.11 (2) (a) – (e) and 938.22(2)(a), Stats.

3. Explanation of agency authority: Per s. 301.37(1), Stats., the department shall develop reasonable standards and regulations for the design, construction, repair and maintenance of all juvenile detention facilities and secured residential care centers for children and youth, after consulting with the department of children and families. From s. 301.36(1), Stats., the department also has the authority to investigate and supervise all juvenile correctional facilities, all secured residential care centers for children and youth, and all juvenile detention facilities.

Additionally, per s. 938.22(2)(a), Stats., the Department is required to promulgate rules to establish minimum requirements for the approval and operation of juvenile detention facilities, secured residential care centers for children and youth, and the juvenile portion of county jails. These rules must be designed to protect the health, safety and welfare of the juveniles placed in those facilities.

4. Related statute or rule: s. 938, Stats. and ch. DOC 301.

5. Plain language analysis: 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. DOC 346 has been promulgated at various times over the years which correspond to the different dates stipulated in the rule. This allows those facilities constructed at different time periods to maintain their authorization for occupancy as the physical environments under the different versions of DOC 346 changed over the past decades.

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 for the collocation with an adult facility.

6. Summary of, and comparison with, existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule: 34 U.S.C. ch. 111

7. Comparison with similar rules in adjacent states:

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.

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).

8. Summary of the factual data and analytical methodologies: 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. 227.114, Stats.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis: Not applicable.

10. Effect on small businesses: Not applicable.

11. A copy of any comments and opinion prepared by the Board of Veterans Affairs. Not applicable.

12. Agency contact person: Caitlin Washburn, Administrative Rules Coordinator, 3099 East Washington Avenue, P.O. Box 7925, Madison, WI, 53707-7925; by phone: (608) 240-5020; or by email: DOCAdministrativeRulesCommittee@wisconsin.gov.

13. Place where comments are to be submitted and deadline for submission: Written comments on the proposed rule will be accepted and receive consideration if they are received by **October 14th, 2024**. Written comments should be addressed to: Administrative Rules Committee, c/o Caitlin Washburn, DOC, P.O. Box 7925, Madison, WI 53707-7925, or by email: DOCAdministrativeRulesCommittee@wisconsin.gov.

TEXT OF RULE

SECTION 1. Chapter DOC 346 is repealed and recreated to read:

Chapter DOC 346

SECURE DETENTION FOR YOUTH

Subchapter I – General Provisions

DOC 346.01 Purpose. The purpose of this chapter is to establish 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.

DOC 346.02 Authority. This chapter is promulgated under the authority of s. 938.22 (2) (a), Stats., and implements ss. 301.36, 301.37, and 938.209, Stats.

DOC 346.03 Applicability. The provisions of this chapter apply to youth detention facilities, youth portions of county jails, and the youth detention portion of a secured residential care center for children and youth.

DOC 346.04 Definitions. In this chapter:

- (1) “Administrative confinement” means a nonpunitive confinement of a youth because the youth’s behavior presents a danger to others or poses a serious risk to facility security, including escape or disturbance.
- (2) “Assessment” means a process for identifying the risks, needs, and protective factors of youth by using an objective and validated assessment tool.
- (3) “Body cavity search” means a manual inspection of the anal or vaginal cavity of a youth conducted by means of any instrument, apparatus, finger, or object.
- (4) “Classification” means a process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to living units and programs according to their needs and existing resources.
- (5) “Construction plans” mean the site plans, drawings, and specifications for construction or remodeling of a facility.
- (6) “Contraband” means any item not allowed in a facility by the superintendent.
- (7) “Dayroom” means an area contiguous to each living unit that is usable and accessible by youth and designed and used for leisure activities but not for sleeping purposes.
- (8) “Department” means the department of corrections.
- (9) “Detention strength” means strong enough to resist damage youth could inflict and to maintain safety and security and prevent youth from harming themselves or others.
- (10) “Dormitory” means a room used for sleeping purposes and designed for occupancy by 3 or more youth.
- (11) “Facility” means a youth detention facility, the youth portion of a county jail, or the youth detention portion of a secured residential care center for children and youth.
- (12) “Force” means intentional physical contact between staff and youth to overcome resistance or to compel youth to act or to refrain from acting in a particular way.
- (13) “Health care assessment” means a process whereby a youth’s health status is evaluated by a qualified health care professional through a physical examination, including questioning the patient about symptoms.
- (14) “Holding room” means a secure room designed for holding one or more youth of the same gender for the purpose of processing admissions, releases, investigations, or court appearances.
- (15) “Living area” means the part of a youth detention facility normally occupied by youth, including dayrooms, multipurpose space, and adjacent control centers.
- (16) “Mechanical restraint” means any device attached to a youth’s body that restricts freedom of

movement or normal access to the youth's body.

(17) "Multipurpose room" means an activity area designed and used for programming and services. "Multipurpose room" does not include a sleeping room, dayroom, dormitory, classroom, visiting space, or recreation space.

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

(19) "Officer" means a juvenile detention officer, as defined under s. 165.85 (2) (bt), Stats.

(20) "Pat down search" means an inspection by running the hands over the clothed body of a youth by a staff member to determine whether the youth possesses contraband.

(21) "Privileged mail" means any written communication between a youth and an attorney.

(22) "Qualified health care professional" means a physician, physician assistant, nurse, nurse practitioner, dentist, mental health professional, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for patients.

(23) "Qualified mental health professional" means a psychiatrist, psychologist, psychiatric social worker, psychiatric nurse, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of patients.

(24) "Rated bed capacity" means the design capacity approved by the department under this chapter, based on single occupancy sleeping rooms under s. DOC 346.09 (3) (a), double occupancy sleeping rooms under s. DOC 346.09 (3) (b), and dormitories under s. DOC 346.09 (3) (c).

(25) "Receiving room" means a secure room designed and used as a sleeping room for one youth during admission, release, observation, or investigatory purposes.

(26) "Recreation space" means a room or an area in a facility that is dedicated for youth exercise and recreation.

(27) "Secure perimeter" means the outer boundary of a youth detention facility or of the youth portion of a county jail or secured residential care center for children and youth.

(28) "Sleeping room" means a room designed and used for one youth confined in a facility except when the facility meets the conditions for double occupancy under s. DOC 346.09 (3) (b).

(29) "Social supporter" includes a parent or guardian, foster parent, legal custodian, sibling, other relative, the parent of a youth's child, the youth's child, mentor, community-based service provider, educator, clergy member, and other caring and supportive individuals who are a reliable presence for the youth.

(30) "Strip search" means a search, as defined under s. 968.255 (1) (b), Stats.

(31) "Superintendent" means either of the following:

(a) The individual designated to be in charge of a youth detention facility under s. 938.22 (3) (a), Stats., or the director as specified in s. 938.22 (3) (b), Stats.

(b) In the case of the youth portion of the county jail, the sheriff of a county in which the jail is located pursuant to s. 59.27 (1), Stats.

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

(33) "Youth" means any individual placed or transferred to a facility under the provisions of s. 301.08, Stats., or ch. 938, Stats.

(34) "Youth detention facility" means a juvenile detention facility as defined under s. 938.02 (10r), Stats., and includes a stand-alone facility or a facility located in the same building or on the same grounds as a county jail or secured residential care center for children and youth.

(35) "Youth detention portion of a secured residential care center for children and youth" means an area which is used for the detention of youth and is collocated with a secured residential care center for children and youth.

(36) "Youth portion of a county jail" means an area that is used for the detention of youth and that is part of a county jail.

DOC 346.05 Variance.

(1) The superintendent may submit a written request to the department to be granted a variance from a provision of this chapter if:

- (a) Strict enforcement of the rule would result in unreasonable hardship for administration of the facility; and
 - (b) The variance would provide equivalent or better protection for the health, safety, rights, and welfare of youth and the public.
- (2) In all cases, there is a presumption that strict compliance with this chapter shall be required and the responsibility to provide commensurate justification for a variance rests with the requestor.
- (3) At a minimum, any request for a variance must include:
- (a) The applicable provision of this chapter for which a variance is sought.
 - (b) A description of the request and commensurate justification.
 - (c) Any additional information requested by the Department.
- (4) No variance may be granted to minimum space requirements for youth housing areas under s. DOC 346.09 (3) (a), (b), (c) and (d).
- (5) The department shall send a decision letter to the superintendent subsequent to reviewing the request. The department may impose specific conditions including reasonable time limits on a variance in order to protect the health, safety, rights, and welfare of youth and the public.
- (6) Violation of any condition of a variance by the facility constitutes a violation of this chapter. Upon finding that there has been a violation of a condition of a variance, the department may revoke the variance and require strict enforcement of the rule.
- (7) Any granted variance does not establish a precedent.

DOC 346.06 Records and reporting.

- (1) REGISTER OF YOUTH. Each facility shall keep a register of all youth. The register shall contain identifying information on each youth including name, residence, age, gender, race, court order, time and cause of placement, placing authority, and time of release and releasing authority.
- (2) STORAGE OF RECORDS. Records shall be kept in a secure location and in a confidential manner.
- (3) REPORTING REQUIREMENTS. The facility shall notify the department's regional detention facilities specialist within 48 hours after any of the following events occurs:
- (a) A youth dies.
 - (b) A youth is admitted to a hospital.
 - (c) Staff is admitted to a hospital due to injury caused by assault.
 - (d) A youth escapes or attempts to escape from secure custody.
 - (e) There is significant damage to the facility affecting the safety or security of the facility.
 - (f) Any change in the facility housing designation in accordance with s. DOC 346.07 (2).
- (4) INFORMATION. The facility shall promptly furnish to the department all requested information.

DOC 346.07 Operational plan.

- (1) Before a facility may hold youth in secure custody, the facility shall develop a written operational plan which has been approved by the department under s. 938.22 (2) (a), Stats. The facility may not implement any plan until the department has approved the plan.
- (2) The operational plan shall designate whether the facility will operate as a youth detention facility, the youth portion of a county jail, or the youth detention portion of a secured residential care center for children and youth.
- (3) The operational plan shall contain policies and procedures for the operation of the facility. The policies and procedures shall include the standards set forth in ss. DOC 346.06 and DOC 346.12 to 346.48.
- (4) The operational plan shall comply with the standards specified in this chapter.
- (5) The facility shall implement the operational plan consistent with the requirements of this chapter.

DOC 346.08 Construction plans.

- (1) An entity that intends to build or remodel a facility shall file a letter of intent with the department before design development begins.
- (2) An entity shall provide copies of original and updated construction plans of the area within the secure perimeter of the facility to the department.
- (3) All sites, plans, and specifications for construction or remodeling of a facility shall comply with the Wisconsin Commercial Building Code under chs. SPS 361 to 366.
- (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 346.09 Physical environment of new or substantially remodeled youth detention facilities.

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

(2) **FURNITURE AND FIXTURES.** The following furniture and fixtures used in a facility shall be of detention strength materials or be of secure type to ensure safety for staff and youth:

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

- (zh) Toilets.
- (zi) Urinals.
- (zj) Walls.
- (zk) Washbasins.
- (zL) Window frames.
- (zm) Windows.

(3) YOUTH HOUSING.

(a) *Sleeping rooms.*

1. Except if par. (b) applies, each room shall be designed and used only for single occupancy.
2. Except if par. (b) applies, each room 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.
3. Each room shall have a bed.

(b) *Double sleeping room.*

1. A facility may use rooms for double occupancy.
2. Youth assigned to a double room shall meet the criteria under s. DOC 346.13 (1) (b).
3. Each double occupancy room shall have all of the following:
 - a. Floor area of at least 50 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.
 - b. A bed for each youth assigned to the room.

(c) *Dormitories.*

1. Youth assigned to a dormitory shall meet the criteria under s. DOC 346.13 (1) (b).
2. Each dormitory shall have a minimum floor area of 35 square feet of unencumbered space per youth assigned to the dormitory for sleeping purposes.
3. In addition, each dormitory shall have a minimum floor area of 35 square feet per youth assigned to the dormitory for the purpose of a dayroom.
4. Each dormitory shall have a floor to ceiling height of not less than 12 feet.
5. Each dayroom shall have tables and seating for the number of youth that have access to the dayroom.
6. A bed shall be provided for each youth assigned to the dormitory.
7. An area for personal property shall be provided for each youth assigned to the dormitory.
8. Each dormitory shall have toilets, washbasins, and showers for youth. Each dormitory shall have hot and cold running water.
9. All upper bunks shall be equipped with an anti-rollout plate.

(d) *Dayrooms.*

1. All sleeping rooms and dormitories shall have one or more dayrooms in their immediate vicinity that are accessible to youth.
2. Dayrooms shall provide a minimum of 35 square feet per youth that have access to the dayroom.
3. Each dayroom shall have tables and seating for the number of youth that have access to the dayroom.

(e) *Toilets, washbasins and showers.*

1. The facility shall provide toilets, washbasins, and showers accessible for youth that meet all of the following conditions:
 - a. The washbasin and toilet may be combined in one unit.
 - b. The washbasin and shower shall have hot and cold running water.
 - c. The washbasin area shall include a mirror that is not removable.
2. The number of toilets and showers provided shall be in compliance with the Wisconsin Commercial Building Code under chs. SPS 361 to 366.
3. Toilets and showers shall provide for individual privacy.

(f) *Lighting.* Light fixtures shall provide at least 10 foot-candles of illumination, 30 inches above the

floor. The facility shall have the ability to reduce lighting to allow for comfortable sleeping while remaining adequate for wellness checks.

(4) RECEIVING ROOMS.

(a) All receiving rooms shall be designed and used for single occupancy.

(b) Each receiving room 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 room shall have all of the following:

1. A bed.

2. A toilet and washbasin with hot and cold running water.

3. Light fixtures that provide at least 10 foot-candles of illumination, 30 inches above the floor. The facility shall have the ability to reduce lighting to allow for comfortable sleeping while remaining adequate for wellness checks.

(5) HOLDING ROOMS.

(a) A holding room shall have a minimum floor area of 50 square feet for 5 or fewer occupants and an additional 10 square feet for each additional occupant.

(b) Each holding room shall have all of the following:

1. Seats or benches.

2. A toilet and washbasin with hot and cold running water.

3. Light fixtures that provide at least 10 foot-candles of illumination, 30 inches above the floor.

(6) MULTIPURPOSE ROOMS.

(a) Each facility shall provide dedicated space for programming and services.

(b) Multipurpose rooms shall be of sufficient size to accommodate a variety of programming and services and shall have a minimum combined floor area of 300 square feet.

(7) CLASSROOM SPACE.

(a) Each facility shall provide dedicated classroom space to meet the educational needs of the youth population.

(b) Classroom space shall be designed in conformity with any state and local educational requirements.

(8) QUIET SPACE.

(a) Each facility shall provide a dedicated quiet space that promotes a positive behavior adjustment opportunity for a youth.

(b) The quiet space shall not be locked or used for discipline.

(9) INDOOR RECREATION SPACE.

(a) Each facility shall provide a dedicated space for indoor exercise and recreation.

(b) The indoor recreation space shall be of sufficient size to accommodate a variety of individual and group aerobic and large-muscle exercise activities and physical education.

(10) OUTDOOR RECREATION SPACE.

(a) Each facility shall provide a dedicated space for outdoor exercise and recreation to accommodate a variety of individual and group aerobic and large-muscle exercise activities and physical education.

(b) The space described in par. (a) must meet the following requirements:

1. Have a minimum of 70 square feet of unencumbered square feet per occupant.

2. Ensure the privacy of the youth.

3. Have a secure perimeter.

4. Have the ability to detect or deter contraband from entering the space.

(11) HEALTHCARE SPACE.

(a) Each facility shall provide dedicated space for healthcare.

(b) There shall be sufficient space, equipment, and supplies for the performance of health care services in a confidential manner.

(12) FOOD SERVICE SPACE. A facility that prepares meals on-site shall have dedicated food service space.

(13) RECEIVING SPACE.

(a) Each facility shall provide dedicated space for youth privacy during searches, showering, and

processing.

(b) There shall be sufficient space for storage of clothing and property.

(14) VISITATION SPACE. Each facility shall provide dedicated visitation space.

(15) EXTERIOR WINDOWS. Each window that leads to the exterior of the facility or to an area outside the secure perimeter of the facility must meet all of the following requirements:

(a) Have security glass of sufficient strength to resist breakage and maintain safety and security to prevent youth from harming themselves and others and to prevent escape.

(b) Be mounted in a detention strength frame and designed to prevent escape and the passage of contraband.

(c) Prevent persons outside the secure perimeter from entering the facility or observing youth.

(16) INTERIOR WINDOWS. Each window within the secure perimeter of the facility must meet all of the following requirements:

(a) Have security glass of sufficient strength to resist breakage and maintain safety and security to prevent youth from harming themselves and others and to prevent escape.

(b) Be mounted in a detention strength frame and designed to prevent escape and the passage of contraband.

(17) EXTERIOR DOORS AND APPROACHES.

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

(b) Every door entering into the secure perimeter 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 facility and to allow observation of an area before entering it.

(c) Each entry into and from the secure perimeter shall include a secure vestibule that promotes security by the use of 2 or more doors, with each door able to operate independently, used to contain and observe those who pass through the space.

(d) The exterior of the facility and approaches to the facility shall be well lighted at night to permit observations of persons approaching the facility.

(18) INTERIOR DOORS.

(a) Every door in the secure perimeter shall be of detention strength.

(b) Each of these doors shall have a means of observation to permit identification of individuals before they enter or exit.

(19) WALLS.

(a) Exterior walls shall be constructed of reinforced concrete or fully grouted concrete block of at least 8 inches thick, or the walls shall be constructed of materials of similar strength that provide equivalent security.

(b) Interior walls 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 youth housing areas shall be constructed tight to the structure.

(20) CEILINGS. Ceilings shall be constructed of high impact detention strength materials that are escape resistant, resist damage or breakage to prevent youth from harming themselves and others, and prevent passage of contraband.

(21) ACCESS TO CONTROLS. Youth shall not have unauthorized access to plumbing, wiring, vents, thermostats, or facility controls. Any youth accessible outlets shall be under facility control.

(22) NATURAL LIGHT.

(a) All youth housing areas shall provide youth with access to natural light.

(b) Artificial light may not be used as an alternative to the natural light requirements pursuant to the Wisconsin Commercial Building Code, chs. SPS 361 to 366.

(23) INTERCOM. Two-way audio communication capability shall be provided between any remotely controlled door and its control point.

DOC 346.10 Physical environment of juvenile detention facilities constructed or substantially remodeled on or after November 1, 2010 but prior to “the effective date of this section/title [LRB inserts date]”.

(1) APPLICABILITY. This section applies only to juvenile detention facilities that are constructed or substantially remodeled on or after November 1, 2010 but prior “the effective date of this subsection [LRB inserts date].”

(2) JUVENILE HOUSING.

(a) Each juvenile shall have a separate bunk or bed in a cell that meets the requirements of sub. (3) or (4) or in a dormitory that meets the requirements of sub. (5). A facility may not exceed its rated bed capacity.

(b) The total number of juveniles housed in double cells under sub. (4) and in dormitories under sub. (5) may not exceed 75 percent of the rated bed capacity of the facility.

(3) CELLS.

(a) Unless sub. (4) applies, all cells for juveniles in a facility shall be designated and used for single occupancy only.

(b) Unless sub. (4) applies, cells shall have minimum floor area of 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) Unless sub. (4) applies, 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.

2. An unbreakable, institution-type mirror.

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

4. A rigidly constructed shelf-type table and seat that are bracketed to the wall or bolted to the floor.

5. Unless sub. (4) applies, 2 or more nonremovable, collapsible, detention strength clothing and towel hooks.

6. Light fixtures of detention strength and providing at least 30 foot-candles at 30 inches above the floor. Lights shall have a dimming capability or there shall be a nightlight to allow for comfortable sleeping. There shall be enough illumination for observation of juveniles during security checks.

(d) There shall be no exposed heating pipes, radiators or controls in cells.

(e) There shall be a release system designed to unlock cell doors individually and as a group from a single point outside the confinement area.

(4) DOUBLE CELLING.

(a) A juvenile detention facility may use cells for double occupancy. This section does not apply to a juvenile portion of a county jail.

(b) If a juvenile detention facility determines based on all the criteria under s. DOC 346.13 that placement of a juvenile in a double cell may jeopardize the health or safety of the juvenile, other juveniles in the facility, staff or the community, the juvenile may not be placed in a double cell. If a juvenile detention facility determines based on all the criteria under s. DOC 346.13 that placement of 2 particular juveniles in a double cell may jeopardize the health or safety of either juvenile, other juveniles in the facility, staff, or the community, those juveniles may not be placed together in a double cell.

(c) In addition to the requirements for single occupancy cells under s. DOC 346.10 (3) and before a cell may be used for double occupancy, all of the following conditions shall be met:

1. ‘Minimum floor area’.

a. In juvenile detention facilities that are constructed or substantially remodeled between October 1, 1994, and November 1, 2010, a cell shall have a minimum floor area of 70

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.

b. In juvenile detention facilities that were constructed before October 1, 1994, and have not been substantially remodeled after October 1, 1994, a cell shall have a minimum floor area of 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. In juvenile detention facilities that are constructed or substantially remodeled after November 1, 2010, a cell shall have a minimum floor area of 70 square feet of unencumbered space.

2. 'Receiving cells'. Receiving cells may not be used for double occupancy.

3. 'Single occupancy cells'. Each juvenile detention facility shall maintain a minimum of 2 cells which are designed and used for single occupancy only.

4. 'Double occupancy cells'. A juvenile detention facility may not exceed 75% double occupancy of the total number of cells, excluding receiving cells and holding rooms.

5. 'Clothing hooks'. Each cell shall contain a minimum of 2 nonremovable, collapsible, detention strength clothing and towel hooks for each occupant.

6. 'Anti-rollout plates'. For facilities constructed or substantially remodeled after November 1, 2010, all upper bunks shall be equipped with an anti-rollout plate.

(5) DORMITORIES.

(a) A juvenile detention facility may use dormitories in addition to cells for the secure detention of juveniles.

(b) Each dormitory shall be designed for a minimum of 3 and a maximum of 8 juveniles.

(c) If a juvenile detention facility contains one dormitory, it shall have a minimum of 2 cells designed and used for single occupancy.

(d) If more than one dormitory is built, the number of dormitory beds may not exceed 50 percent of the rated bed capacity of the juvenile detention facility.

(e) If, based on all the criteria under s. DOC 346.13, a juvenile detention facility determines that placement of a juvenile in a dormitory may jeopardize the health or safety of the juvenile, other juveniles in the facility, staff, or the community, the juvenile may not be placed in a dormitory.

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

1. A minimum combined sleeping area and adjacent day room space of 70 square feet per juvenile based on rated bed capacity of the dormitory, excluding toilets, showers, and lavatories.

2. A minimum floor to ceiling height of 8 feet.

3. Non-locking doors on sleeping rooms, if separate sleeping rooms are provided.

4. Unrestricted physical access to the day room, lavatories, and toilets.

5. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor for each juvenile based on the rated bed capacity of the dormitory.

6. For facilities constructed or substantially remodeled after November 1, 2010, all upper bunks equipped with an anti-rollout plate.

7. Detention strength washbasins and toilets.

8. Unbreakable, detention strength mirrors sufficient for the number of juveniles confined.

9. Detention strength tables and seating in the day room based on the rated bed capacity of the dormitory.

10. Two nonremovable, collapsible, detention strength clothing and towel hooks for each juvenile confined based on the rated bed capacity of the dormitory.

11. Detention strength light fixtures that provide at least 30 foot-candles at 30 inches above the floor. Lights shall have a dimming capability or there shall be a nightlight to allow for comfortable sleeping. There shall be enough illumination for observation of juveniles during security checks.

(6) DAY ROOM.

(a) Each day room shall have all of the following:

1. A minimum floor area of 35 square feet for each juvenile based on the rated bed capacity of

the adjacent group of cells. In addition, each day room shall have a minimum of 70 square feet of unencumbered space.

2. Detention strength light fixtures that provide at least 30 foot-candles at 30 inches above the floor.

3. Adequate furnishings and equipment for leisure time activities as required under this chapter.

4. Detention strength tables and seating based on the rated bed capacity of the adjacent cells.

(b) There shall be in the day room no exposed heating pipes, radiators, or controls that are accessible to juveniles.

(7) HOLDING ROOMS.

(a) Holding rooms shall be located in an area that allows continuous staff observation or electronic video surveillance of juveniles.

(b) Each holding room shall have all of the following:

1. Detention strength, rigidly constructed seats or benches bracketed to the wall or bolted to the floor or seats or benches of masonry construction of similar strength.

2. A detention strength, metal, institution-type wash basin and toilet.

3. A minimum floor area of 50 square feet of unencumbered space for 5 or fewer occupants and an additional 10 square feet of unencumbered space for each additional occupant.

4. Detention strength light fixtures that provide at least 30 foot-candles at 30 inches above the floor.

(c) Holding rooms are not included in the rated capacity of a facility.

(d) Juveniles may not be held in a holding room for more than 24 continuous hours.

(e) Holding rooms outside the secure perimeter shall comply with the requirements of this section.

(8) RECEIVING CELLS.

(a) All receiving cells shall be designed and used for single occupancy.

(b) 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 similar strength.

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

3. Detention strength light fixtures that provide at least 30 foot-candles at 30 inches above the floor. Lights shall have a dimming capability or there shall be a nightlight to allow for comfortable sleeping. There shall be enough illumination for observation of juveniles during security checks.

4. A minimum floor area of 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) Receiving cells are not included in determining the rated capacity of a facility.

(d) Juveniles may not be held in a receiving cell for more than 72 continuous hours.

(9) NATURAL LIGHTING. Cells under subs. (3) and (4) and dormitories under sub. (5) shall be provided with natural light in accordance with the International Building Code, s. 1204, as adopted by the department of safety and professional services under s. SPS 361.05 (1). Artificial light may not be used as an alternative to the natural light requirements under the International Building Code.

(10) EXTERIOR WINDOWS.

(a) This subsection applies to all windows that lead to the exterior of the facility or to an area outside the secure perimeter of the facility.

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

(c) Each exterior window that has an opening in any direction in excess of 5¹/₂ inches shall be covered with security steel grills to prevent escape.

(d) If an exterior window is accessible to juveniles 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 juveniles and opens, 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 juveniles, 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.

(11) SHOWERS. There shall be at least one shower for every 8 juveniles. There shall be an adequate supply of hot and cold water so that juveniles shall be permitted to shower on a daily basis.

(12) MULTI-PURPOSE SPACE. Facilities shall contain multi-purpose space which shall have a minimum of 300 square feet of floor area or provide 35 square feet of floor area for the maximum number of juveniles expected to use the space at one time, whichever is greater.

(13) CLASSROOM SPACE. For juvenile detention facilities that are constructed or substantially remodeled after November 1, 2010, there shall be classroom space designed in conformity with local or state educational requirements.

(14) HEALTH CARE AREA. If medical or dental services are provided in the facility, there shall be sufficient space, equipment, supplies and materials for the performance of primary health care delivery in a confidential and private manner. The superintendent shall consult with the health care provider to determine the adequacy of the space, equipment, supplies, and materials.

(15) OUTDOOR RECREATION SPACE.

(a) If provided, there shall be a minimum of 70 square feet of outdoor recreational space per occupant.

(b) The operational plan under s. DOC 346.07 shall contain policies and procedures for the safe and secure use of outdoor recreational space.

(16) STORAGE SPACE.

(a) Sufficient space shall be provided in the facility to store and issue clothing, bedding, cleaning supplies, and other items for daily operations.

(b) Space shall be provided for storing the personal property of juveniles safely and securely.

(17) VISITING SPACE. Sufficient space for visitation shall be provided.

DOC 346.11 Physical environment of juvenile detention facilities constructed on or after October 1, 1994, but prior to November 1, 2010.

(1) APPLICABILITY. This section applies only to juvenile detention facilities that are constructed on or after October 1, 1994 but prior to November 1, 2010.

(2) JUVENILE HOUSING.

(a) Each juvenile shall have a separate bunk or bed in a cell that meets the requirements of sub. (3) or (4) or in a dormitory that meets the requirements of sub. (5). A facility may not exceed its rated bed capacity.

(b) The total number of juveniles housed in double cells under sub. (4) and in dormitories under sub. (5) may not exceed 75% of the rated bed capacity of the facility.

(3) CELLS.

(a) Except if sub. (4) applies, all cells for juveniles in a facility shall be designated and used for single occupancy only.

(b) Except if sub. (4) applies, cells shall have minimum floor area of 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) Except if sub. (4) applies, each cell shall contain a rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor.

(d) Mattresses and pillows shall be available where there is need for overnight detention.

1. Mattresses and pillows shall be made of fire-resistant material, shall be covered with fire retardant, waterproof, and easy-to-sanitize material, and shall be kept in good repair.

2. Suppliers of mattresses and pillows shall provide information giving evidence of the fire retardant and waterproof capabilities of their product.
3. Mattresses shall be at least 3 inches in thickness and be of proper size to fit the bunks or beds.
- (e) An unbreakable, institution-type mirror shall be provided in each cell.
- (f) A detention strength, metal, institution-type wash basin and toilet shall be provided in each cell. The wash basin and toilet may be combined in one unit. The wash basin shall have hot and cold running water.
- (g) A rigidly constructed shelf-type table and seat that are bracketed to the wall or bolted to the floor shall be provided in each cell.
- (h) Except if sub. (4) applies, 2 or more non-removable, collapsible, detention strength clothing and towel hooks shall be provided in each cell.
- (i) All facilities shall have a system for emergency unlocking of individual or all cell doors from a single point outside the confinement area.
- (j) There shall be no exposed heating pipes, radiators, or controls in cells.
- (k) Light fixtures shall be detention strength and shall provide at least 30 foot-candles at 30 inches above the floor. Lights shall have a dimming capability or there shall be a nightlight to allow for comfortable sleeping. There shall be enough illumination for observation of juveniles during security checks.
- (4) DOUBLE CELLING.
 - (a) A secure detention facility may use cells for double occupancy. This section does not apply to a juvenile portion of a county jail.
 - (b) If, based on all criteria under s. DOC 346.13, a secure detention facility determines that placement of a juvenile in a double cell may jeopardize the health or safety of the juvenile, other juveniles in the facility, staff or the community, the juvenile may not be placed in a double cell. If, based on all the criteria under s. DOC 346.13, a secure detention facility determines that placement of 2 particular juveniles in a double cell may jeopardize the health or safety of either juvenile, other juveniles in the facility, staff or the community, those juveniles may not be placed together in the double cell.
 - (c) In addition to the requirements for single occupancy cells under subs. (2) and (3) and before a cell may be used for double occupancy, all of the following conditions shall be met:
 1. 'Minimum floor area'.
 - a. In secure detention facilities that are constructed or substantially remodeled on or after October 1, 1994, a cell shall have a minimum floor area of 70 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.
 - b. In secure detention facilities that were constructed before October 1, 1994, and have not been substantially remodeled after October 1, 1994, a cell shall have a minimum floor area of 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.
 2. 'Receiving cells'. Receiving cells may not be used for double occupancy.
 3. 'Single occupancy cells'. Each secure detention facility shall maintain a minimum of 2 cells which are designed and used for single occupancy only.
 4. 'Double occupancy cells'. A secure detention facility may not exceed 75 percent double occupancy of the total number of cells, excluding receiving cells and holding rooms.
 5. 'Clothing hooks'. Each cell shall contain a minimum of two nonremovable, collapsible, detention strength clothing and towel hooks for each occupant.
- (5) DORMITORIES.
 - (a) A secure detention facility may use dormitories in addition to cells for the secure detention of juveniles. Each dormitory shall be designed for a minimum of 3 and maximum of 8 juveniles. If a secure detention facility contains one dormitory, it shall have a minimum of 2 cells designed and used for single occupancy. If more than one dormitory is built, the number of dormitory beds may not exceed 50 percent of the rated bed capacity of the secure detention facility.

(b) If, based on all the criteria under s. DOC 346.13, a secure detention facility determines that placement of a juvenile in a dormitory may jeopardize the health or safety of the juvenile, other juveniles in the facility, staff or the community, the juvenile may not be placed in a dormitory.

(c) Each dormitory shall have all of the following:

1. A minimum combined sleeping area and adjacent day room space of 70 square feet per juvenile based on rated bed capacity of the dormitory, excluding toilets, showers, and lavatories.
2. A minimum floor to ceiling height of 8 feet.
3. Non-locking doors on sleeping rooms, if separate sleeping rooms are provided.
4. Unrestricted, physical access to the day room, lavatories, and toilets.
5. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor for each juvenile based on the rated bed capacity of the dormitory.
6. Detention strength wash basins and toilets.
7. Unbreakable, detention strength mirrors sufficient for the number of juveniles confined.
8. Detention strength tables and seating in the day room based on the rated bed capacity of the dormitory.
9. Two nonremovable, collapsible, detention strength clothing and towel hooks for each juvenile confined based on the rated bed capacity of the dormitory.
10. Light fixtures shall be detention strength and shall provide at least 30 foot-candles at 30 inches above the floor. Lights shall have a dimming capability or there shall be a nightlight to allow for comfortable sleeping. There shall be enough illumination for observation of juveniles during security checks.

(6) DAY ROOM. Each day room shall have a minimum floor area of 35 square feet for each juvenile based on the rated bed capacity of the adjacent group of cells. In addition, each day room shall have a minimum of 70 square feet of unobstructed floor area.

(a) There shall be no exposed heating pipes, radiators, or controls.

(b) Light fixtures shall be detention strength and shall provide at least 30 foot-candles at 30 inches above the floor.

(c) There shall be adequate furnishings and equipment for leisure time activities as required under this chapter.

(d) The day room shall have detention strength tables and seating based on the rated bed capacity of the adjacent cells.

(7) SHOWERS. There shall be at least one shower for every 8 persons and an adequate supply of hot and cold water so that all juveniles may shower every day.

(8) MULTI-PURPOSE SPACE. Facilities shall contain multi-purpose space that shall have a minimum of 300 square feet of floor area or provide 35 square feet of floor area for the maximum number of juveniles expected to use the space at one time, whichever is greater.

(9) EXTERIOR WINDOWS.

(a) This subsection applies to all windows that lead to the exterior of the facility or to an area outside the secure perimeter of the facility.

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

(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 juveniles 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 juveniles 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 juveniles, 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) RECEIVING CELLS.

(a) All receiving cells shall be designed and used for single occupancy.

(b) Each receiving cell shall have a minimum floor area of 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 similar strength.
2. A detention strength, metal, institution-type wash basin and toilet. The wash basin and toilet may be combined in one unit. The wash basin shall have hot and cold running water.
3. Light fixtures that are detention strength and provide at least 30 foot-candles at 30 inches above the floor. Lights shall have a dimming capability or there shall be a nightlight to allow for comfortable sleeping. There shall be enough illumination for observation of juveniles during security checks.

(11) HOLDING ROOMS.

(a) Holding rooms shall only be used for admission, release, investigative purposes, and court appearances. Holding rooms shall be located in an area that allows continuous staff observation or electronic video surveillance of juveniles.

(b) Holding rooms may be designed and used for multiple occupancy for juveniles of the same classification.

(c) Each holding room shall have all of the following:

1. Detention strength, rigidly constructed seats or benches bracketed to the wall or bolted to the floor or seats or benches of masonry construction of similar strength.
2. A detention strength, metal, institution-type wash basin and toilet.
3. A minimum floor area of 50 square feet with an additional 10 square feet for each occupant above 5.
4. Light fixtures shall be detention strength and shall provide at least 30 foot-candles at 30 inches above the floor.

(12) EXISTING FACILITIES. Existing juvenile portions of a county jail shall continue to meet the physical requirements for adult jails established in ch. DOC 350.

Subchapter III – Admission and Release

DOC 346.12 Admission and screening.

(1) No youth may be admitted unless the facility is approved by the department.

(2) An approved facility shall receive youth 24 hours a day, 7 days a week.

(3) A youth who appears to be seriously ill or injured, who exhibits significant mental or emotional distress, or who appears intoxicated or incapacitated due to controlled substance or alcohol use may not be confined in the facility unless a qualified health care professional or qualified mental health professional has treated and approved the youth for admission.

(4) The facility's admission procedure shall include a process for determining if a youth is limited English proficient.

(5) The facility shall have appropriate and reliable interpretation services available for limited English proficient youth and youth who are deaf or hard of hearing.

(6) Upon admission, the facility shall complete a health screening under s. DOC 346.19.

(7) Upon admission, youth shall receive both a written and verbal or video orientation to facility rules and procedures, including the grievance procedure. Staff shall document the youth's receipt of these materials.

(8) Following admission, each youth shall be provided the opportunity to shower as soon as practicable.

DOC 346.13 Classification.

(1) OBJECTIVE CLASSIFICATION SYSTEM.

(a) The facility shall establish and maintain an objective classification for youth for the protection and safety of youth, staff, and the community.

(b) The classification system shall identify specific criteria for the exclusion of youth from being housed in a double occupancy room under s. DOC 346.09 (3) (b) or dormitory under s. DOC 346.09 (3) (c).

(c) Staff completing the youth classification shall be trained on the use of the objective classification system in par. (a).

(2) CLASSIFICATION OF YOUTH. Following a youth's admission and prior to room assignment, the facility shall do all of the following:

(a) Complete the youth classification.

(b) Document the classification decision.

(3) RECLASSIFICATION OF YOUTH. Reclassification may occur when there has been a change in a youth's behavioral management.

(4) REVIEW. All classification and reclassification decisions shall be reviewed and documented by a supervisor or designee as soon as practicable.

DOC 346.14 Release. The facility shall have written policies and procedures relating to the release of youth.

Subchapter IV – Staffing

DOC 346.15 Staffing. The facility shall develop, implement, and document a staffing plan that identifies and provides for sufficient staff at the facility to provide adequate and continuous supervision of youth that includes all of the following:

(1) There shall be no less than one officer supervising a maximum of 15 youth in the living area.

(2) There shall be no less than 2 officers on duty in the facility at any time when youth are present.

(3) Whenever there is a youth in the facility, at least one staff member of the same gender as the youth is on duty in the living area.

(4) No officer responsible for supervision of youth may have responsibility for supervision of adult inmates in a county jail during the same work shift.

(5) A supervisor or designee physically on site during every shift at the facility.

DOC 346.16 Training.

(1) **ORIENTATION.** Before a new staff member is permitted to work independently with youth, the facility shall provide at least 40 hours of orientation training for the new staff member that includes all of the following areas:

(a) Facility policies and procedures.

(b) Facility operations and facility emergencies.

(c) Rules under this chapter.

(d) Youth grievance procedures under s. DOC 346.34.

(e) First aid and use of emergency equipment.

(f) Suicide and self-harm prevention.

(g) Health screening and medications.

(h) Use of restraints and control devices.

(i) Supervision of youth.

(2) **ANNUAL TRAINING.** Security staff shall receive at least 16 hours of annual training on the care and custody of youth, that includes all of the following:

- (a) Mental health and crisis intervention.
 - (b) Health screenings.
 - (c) Procedures on use of force, restraints, and security control devices.
 - (d) Fire safety equipment and evacuation procedures.
- (3) DOCUMENTATION. All staff training shall be documented.

Subchapter V – Food Service and Nutrition

DOC 346.17 Food service.

- (1) SANITATION. The kitchen area and all equipment shall be maintained in a sanitary condition.
- (2) FOOD SAFETY.
- (a) Food items shall be stored at least 6 inches off the floor. Opened food packages shall be stored in airtight containers that are labeled and dated. Food items shall be stored in appropriate locations and temperatures.
 - (b) 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.
 - (c) Food and drink shall be protected from contamination. Meals shall be covered during transit to and within the facility.
 - (d) Food temperature shall be properly maintained and documented daily.
 - (e) Kitchen storage and dishwashing equipment temperatures shall be monitored and documented daily.
 - (f) Garbage containers shall be covered, emptied daily, and kept clean.
 - (g) Cleaning agents shall be stored separately from food service items.
- (3) INVENTORY. There shall be a documented inventory accounting for all sharps, tools, and utensils at all times.
- (4) INSPECTION.
- (a) Internal monthly inspection of all food service areas shall be conducted and documented.
 - (b) Annual inspection of all full-production and service kitchens by a qualified, independent outside source documenting that the food service area meets applicable health and safety codes shall be conducted.

DOC 346.18 Meals.

- (1) The facility shall provide nutritious and quality food for all youth.
- (2) The facility shall develop menus that satisfy generally accepted nutritional standards.
- (3) An annual menu review by a qualified nutritionist or dietician shall be completed and maintained in the facility files. Any change or substitution to the menu shall be documented.
- (4) A youth may abstain from any foods that violate the youth's religion. Consistent with available resources, the facility shall provide a substitute with other available foods from the menu served at the meal. The substitutions shall be consistent with sub. (2).
- (5) Special diets are provided as prescribed by a qualified health care professional.
- (6) Youth shall receive 3 nutritious meals and a snack daily, with no more than 14 hours between the evening meal and breakfast. Two of the meals shall be hot, including the entrée.
- (7) Youth shall eat meals in a cafeteria or common area unless approved by a supervisor or designee.

Subchapter VI – Health and Mental Health Care

DOC 346.19 Health screening.

- (1) The facility shall use a health screening form that is developed in conjunction with qualified health

care professionals and is completed at the time of admission for each youth to record information about current and past medical, mental health, and dental conditions, physical and developmental disabilities, recent injuries or physical trauma, alcohol or other drug abuse problems, and suicide or self-harm risk. The completion of a health screening form upon admission of youth shall be documented.

(2) A youth whose screening under sub. (1) is not completed within one hour of admission shall be under constant staff supervision until the screening is completed. Section DOC 346.23 applies if a youth screens positive for risk of suicide or self-harm.

(3) The health screening shall be conducted in a confidential setting.

(4) If urgent concerns are identified during the health screening, referrals to medical, mental health, or supervisory staff shall be immediate.

(5) A qualified health care professional shall review the health screening within 72 hours. The review shall be documented.

(6) Documentation of health screening results and subsequent review of the health screening form shall be maintained in the youth's confidential file.

DOC 346.20 Health care assessment.

(1) All youth shall receive a full health care assessment by a qualified health care professional within 7 days of admission.

(2) The assessment shall be documented.

(3) Documentation of health care assessment results shall be maintained in the youth's confidential medical record.

DOC 346.21 Medical care.

(1) The facility shall provide youth with necessary medical care while the youth is in custody.

(2) The facility shall provide youth with a schedule of access to medical care to be provided under sub.

(1).

(3) The facility shall provide access to emergency medical and dental services.

(4) All licensed or certified health care professionals shall provide services in accordance with the standards of practice established by the applicable regulatory body.

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

(6) A youth may refuse specific health evaluations and treatments in accordance with applicable federal and state law. All refusals shall be documented and maintained in the youth's confidential medical record.

(7) The facility shall allow for submission and screening of medical requests on a daily basis.

(8) The facility's provision of medical care shall ensure access to all of the following:

(a) Pregnancy management.

(b) Acute and chronic medical conditions management.

(c) Communicable disease and infection control.

(d) Detoxification and withdrawal care.

DOC 346.22 Mental health care.

(1) The facility shall provide youth with necessary mental health services from a qualified mental health professional while the youth is in custody.

(2) Licensed mental health professionals shall be in compliance with state and federal licensure certification and registration. Verification of compliance shall be maintained at the facility.

(3) The facility shall have a schedule of access to on-site mental health care services.

(4) The facility shall provide access to emergency mental health care.

DOC 346.23 Suicide and self-harm prevention.

- (1) RISK OF SUICIDE OR SELF-HARM.** The facility shall do all of the following:
 - (a)** Obtain documented information from a transporting agency's observation pertaining to a youth's mental health and potential for suicide or self-harm.
 - (b)** Require staff to immediately notify qualified medical and mental health professionals of all incidents of self-harm or attempted self-harm. The notification and incident shall be documented.
 - (c)** Require staff to immediately notify qualified medical and mental health professionals of youth who have communicated having ideation, plan, or intent to engage in self-harm or suicide. The notification and incident shall be documented.
- (2) SUICIDE OR SELF-HARM WATCH.** The facility shall do all of the following:
 - (a)** Identify designated supervisory staff to be notified if a youth is determined to be a suicide or self-harm risk.
 - (b)** Designate areas within the facility and provide security precautions for youth who are placed on suicide or self-harm watch.
 - (c)** Establish monitoring procedures for youth on suicide or self-harm watch, including frequency and documentation of wellness checks under s. DOC 346.39.
- (3) YOUTH SUPERVISION.** The facility shall do all of the following:
 - (a)** Identify staff who may initiate a suicide or self-harm watch.
 - (b)** Require notification to qualified mental health professionals when the youth is placed on suicide or self-harm watch. Assessment by a qualified mental health professional shall be completed as soon as practicable.
 - (c)** Identify qualified mental health professionals who are authorized to remove a youth from a suicide or self-harm watch status after an in-person assessment.
 - (d)** Establish requirements for the frequency of communication between health care and facility staff regarding the status of a youth who is on suicide or self-harm watch.
 - (e)** Establish an intervention protocol during an apparent suicide or self-harm attempt, including life-sustaining measures.
 - (f)** Identify persons to be notified in case of attempted or completed suicides or self-harm.
- (4) DOCUMENTATION.** The facility shall document actions taken and decisions made regarding youth who are at risk of attempting suicide or self-harm, including all of the following:
 - (a)** Individual initiating the suicide or self-harm watch.
 - (b)** Date and time watch was initiated.
 - (c)** Reason watch was initiated.
 - (d)** Date, time, and name of supervisor contacted.
 - (e)** Date and time of referral to a qualified mental health professional.
 - (f)** Written documentation from the qualified mental health professional removing a youth from a suicide or self-harm watch including name, date, and time.
- (5) SUPPORT SERVICES.** The facility shall provide access to debriefing and support services for youth and staff following a suicide or self-harm incident.

DOC 346.24 Medications.

- (1)** The facility shall comply with state and federal law regarding procuring, prescribing, dispensing, delivering, administering, and disposing of prescription and nonprescription medications.
- (2)** All medications brought into the facility shall be verified, inventoried, and maintained in a designated secure storage area.
- (3)** Designated trained staff may administer or deliver prescribed doses of medication at prescribed times.
- (4)** Prescription and nonprescription medication administered or delivered to a youth shall be documented, including who prescribed the medication, who administered or delivered the medication, and the date and time of administration or delivery.

- (5) All refusals of recommended or prescribed medications by a youth shall be documented.
- (6) All medication errors shall be documented.
- (7) The facility shall inventory and return or dispose of unused medications upon the youth's release or transfer.

DOC 346.25 Medical records.

- (1) Youth medical records shall be kept separate from other records, including custodial records, and shall be maintained in a confidential manner in accordance with ss. 146.81 to 146.83, Stats., and other applicable state or federal laws.
- (2) Records shall be securely maintained and accessible only be designated staff.

Subchapter VII – Resources for Youth

DOC 346.26 Clothing, towels, and bedding.

- (1) CLOTHING.
 - (a) If youth are not permitted to wear personal clothing, all of the following shall be provided upon admission:
 - 1. A set of clean clothing.
 - 2. Clean socks and undergarments.
 - 3. Clean footwear.
 - (b) Clothing shall be laundered at a minimum of 2 times per week, and on a more frequent basis as needed.
 - (c) Undergarments and socks shall be laundered as necessary to provide clean undergarments and socks daily.
- (2) TOWELS AND BEDDING.
 - (a) Staff shall provide each youth with a clean towel and washcloth daily.
 - (b) Staff shall provide each youth with clean bed linens at least once per week.
 - (c) Staff shall provide each youth with a clean blanket at least once per month.
- (3) MATTRESSES AND PILLOWS.
 - (a) Staff shall provide each youth with a clean mattress and pillow.
 - (b) Each mattress and each pillow shall be covered with a fire retardant, waterproof, easy-to-sanitize material.
 - (c) Mattresses and pillows shall be kept in good repair and in a clean and sanitary condition. Staff shall repair or remove from circulation any mattresses with holes or cracks.
 - (d) Mattresses and pillows shall be cleaned and sanitized before reissue.

DOC 346.27 Commissary services. If a facility provides commissary, vending or other similar services for youth, the facility shall have policies and procedures relating to these services.

DOC 346.28 Mail.

- (1) The facility shall not limit the amount of correspondence sent and received by youth.
- (2) The facility shall deliver incoming mail to youth on the same day that it is received at the facility.
- (3) Outgoing youth mail shall be posted daily excluding weekends and holidays.
- (4) Appropriate writing materials shall be provided to youth upon request.
- (5) Postage for a minimum of 2 non-privileged letters a week shall be provided for each youth.
- (6) Postage for privileged mail may not be limited.
- (7) The facility shall establish parameters for inspecting privileged and non-privileged mail.
- (8) If mail is withheld, staff shall inform the youth and document the date, time, reason, and disposition.

DOC 346.29 Communication.

- (1) Upon admission, youth shall be given an opportunity as soon as possible to communicate with social supporters.
- (2) Youth shall have the opportunity to communicate with approved individuals external to the facility no less than once per day.
- (3) The facility may not charge youth to communicate.
- (4) The facility shall make accommodations for youth with hearing or speech disabilities or limited English proficiency.
- (5) If external communication is withheld or monitored, the facility shall inform the youth and document the date, time, and reason.

DOC 346.30 Visitation.

- (1) The facility shall provide visitation hours sufficient to accommodate daily contact visits with approved social supporters.
- (2) Professional visits shall be allowed during reasonable hours as long as security and routine are not unduly interrupted.
- (3) The facility shall establish procedures for requesting visitation outside of normal visiting hours.
- (4) The facility shall post visitation policies and procedures, including visitation schedule, in a place readily accessible to visitors and youth.

DOC 346.31 Publications.

- (1) The facility shall provide access to reading materials of general interest.
- (2) The facility may not limit access to reading materials except when reasonably related to the security of the facility.

DOC 346.32 Religious practices.

- (1) Youth shall have the opportunity to participate in religious practices, services, and programming.
- (2) The facility shall have a process for youth to request items related to their religious practice.
- (3) The facility shall notify youth of the schedule of religious services available.

DOC 346.33 Legal access. The facility shall provide youth access to the courts, attorneys, and legal materials and research.

DOC 346.34 Grievance procedure.

- (1) The facility shall provide all youth with access to a grievance procedure that includes at least one level of appeal.
- (2) The facility shall provide a process by which youth can submit grievances in a confidential manner that is only accessible by a supervisor or designee.

Subchapter VIII – Programs and Services.

DOC 346.35 General. The facility shall do all of the following:

- (1) Provide for use of community resources, contract providers, and volunteers.
- (2) Notify youth of availability, eligibility, and schedules for programs and services.
- (3) Conduct criminal background checks on all volunteers, community resources, and contract providers.
- (4) Provide orientation and training on facility operations for all volunteers.

(5) Youth are not required to participate in uncompensated work assignments unless the work is related to housekeeping, maintenance of the facility or grounds, personal hygienic needs, or part of an approved training or community service program.

DOC 346.36 Education. The facility shall do all of the following:

- (1) Provide educational programming for youth consistent with the requirements of the Department of Public Instruction.
- (2) Ensure that youth have access to education, as provided by the school district in which the facility is located.
- (3) Notify the school district in which the facility is located when youth are placed in the facility.
- (4) Document on a daily basis all of the following:
 - (a) Number of hours of instruction by a teacher.
 - (b) Number of youth receiving instruction.
 - (c) Names of youth who refused to participate in education.
 - (d) Names of youth who were unable to participate and the reasons for the inability.

DOC 346.37 Leisure activities, recreation, and exercise.

- (1) LEISURE ACTIVITIES. The facility shall offer youth a range of leisure activities.
- (2) RECREATION. The facility shall do all of the following:
 - (a) Have a supervised and scheduled recreation and exercise program.
 - (b) Ensure all youth have access to at least one hour of large muscle exercise every weekday and at least 2 hours of large muscle exercise each Saturday and Sunday in a space outside of their own rooms.
 - (c) Have and maintain supplies and equipment to provide a variety of recreational and exercise activities.

Subchapter IX – Safety and Security

DOC 346.38 Security practices.

- (1) KEY CONTROL.
 - (a) All keys assigned to staff shall be stored in a secure area when not in use. All keys must be accessible in the event of an emergency.
 - (b) All keys assigned to staff shall be inventoried and documented at shift change.
 - (c) Youth are not permitted to handle or utilize keys assigned to staff.
 - (d) Keys issued to youth shall be inventoried when issued and returned.
- (2) WEAPONS CONTROL.
 - (a) The facility shall establish protocols for the introduction, availability, inventory, and storage of any security control devices and specify the level of authority required for access and use.
 - (b) Firearms are not permitted in the facility except when brought in by law enforcement in emergency situations.
- (3) TOOL CONTROL. Tool control shall include the introduction, use, storage, and inventory of all tools brought in the facility or stored on-site.
- (4) SEARCHES.
 - (a) *Youth.*
 1. Searches shall not be conducted as a form of harassment, punishment, or discipline.
 2. Searches of youth, except in exigent circumstances, shall be conducted by a staff member of the same gender as the youth.
 3. Body cavity searches shall be conducted by a qualified health care professional.
 4. The facility shall document the reason for all youth strip, body cavity, and cross-gender pat down searches and any items discovered through the search.

- 5. All youth strip, body cavity, and cross-gender pat down searches shall require the documented approval of a supervisor or designee.
- (b) *Visitors*. The facility shall develop protocols for the searching of visitors and their possessions.
- (c) *Facility*. At a minimum, monthly facility searches of all youth accessible areas shall be conducted and documented to control the existence of contraband.
- (5) DOOR AND LOCK INSPECTIONS. Staff shall conduct and document monthly inspections of all doors and locks within and to the secure perimeter of the facility to determine if they are in good working order.
- (6) FACILITY REPAIR. Any damage to the facility that compromises safety or security shall promptly and securely be repaired.

DOC 346.39 Observation of youth.

- (1) The facility shall have a system for providing wellness checks of youth. All youth shall be personally observed by facility security staff at staggered intervals not to exceed any of the following:
 - (a) Thirty minutes for youth in the general population.
 - (b) Fifteen minutes for any of the following:
 - 1. Youth on a suicide or self-harm watch.
 - 2. Youth in administrative confinement.
 - 3. Youth in a receiving room or holding room.
 - 4. Youth voluntarily requests.
 - 5. Youth in room restriction.
 - (c) Staff shall provide continuous personal observation when a youth is mechanically restrained for non-routine purposes.
- (2) Each wellness check shall be documented.
- (3) A video monitoring system may be used to supplement but not replace personal observations.
- (4) The facility shall conduct and document formal physical counts of youth at least 3 times per day, with a minimum of one count per shift.
- (5) The facility shall ensure there is no physical or visual contact between youth and adult inmates.

DOC 346.40 Administrative confinement.

- (1) Administrative confinement may only be used for the following reasons:
 - (a) A youth poses a serious risk of imminent physical harm to themselves, another person, or property.
 - (b) A youth threatens the security and order of the facility.
 - (c) A youth inhibits a pending disciplinary investigation.
- (2) The facility shall designate on-site supervisory staff who may initiate and remove youth from administrative confinement.
- (3) A youth's progress in administrative confinement shall be reviewed by a supervisor or designee at least once a shift. Each review shall be documented.
- (4) If the supervisor or designee determines the youth no longer poses a risk under sub. (1), the youth must be immediately returned to the general population.
- (5) The facility shall notify the following individuals of an administrative confinement placement as soon as practicable:
 - (a) Superintendent or supervisory designee.
 - (b) A qualified mental health professional.
 - (c) A qualified health care professional.
 - (d) Affected facility staff.
 - (e) The youth's parent or guardian.
 - (f) The county or tribe of placement.
- (6) The facility shall document all actions and decisions regarding youth in administrative confinement including:

- (a) Date, time, and name of supervisor making placement.
- (b) Reason placement is initiated.
- (c) Date, time, names of individuals notified, and method of notification to the individuals in sub. (5).
- (d) Date, time, and name of supervisor or supervisory designee removing placement.
- (7) At least quarterly, the facility shall review the use of administrative confinement. The review shall be documented and include:
 - (a) Identification of any patterns indicated by similarities in the time of day, day of the week, duration of use, individuals involved, or other factors associated with the use of administrative confinement.
 - (b) Actions needed to correct identified deficiencies in the facility's implementation of administrative confinement.
 - (c) A review of available options to minimize the use of room confinement.

DOC 346.41 Use of force.

- (1) GENERAL PROVISIONS.
 - (a) Force may be used as a last resort and in accordance with appropriate statutory authority.
 - (b) Staff may only use the amount of force reasonably necessary to achieve the objective for which force is used.
 - (c) Staff shall only use force by employing the least restrictive appropriate means and only for the amount of time necessary to bring the situation under control.
 - (d) Using force for punishment, discipline, retaliation, or as a substitute for treatment is prohibited.
- (2) INCIDENT REPORTING.
 - (a) Any staff member who uses force or witnesses a use of force shall submit a written report describing the incident to their supervisor for review. The report shall include all known relevant facts and be submitted by the end of the shift.
 - (b) A supervisor shall document the review of all use of force incidents.
 - (c) The facility shall conduct and document a multi-disciplinary operational review following a use of force.
 - (d) Facility procedures shall address the role, notification, and follow-up of qualified health care and mental health professionals following use of force incidents.

DOC 346.42 Use of mechanical restraints.

- (1) Mechanical restraints may only be applied to youth if staff determine that they are the least restrictive means of addressing an imminent threat of physical harm to themselves or others, or damage to property.
- (2) Mechanical restraints must be removed immediately upon the youth regaining composure and when the threat of harm or the safety concern has abated.
- (3) Mechanical restraints may never be used as punishment.
- (4) When a youth is mechanically restrained for non-routine purposes, the incident reporting procedure outlined in s. DOC 346.41 (2) shall apply. Documentation shall include the reason for use, duration of use, corresponding continuous personal observation and wellness checks required under s. DOC 346.39(1)(c) and 346.39(2).
- (5) A staff person shall be assigned to monitor a youth who is placed in mechanical restraints and shall remain in continuous auditory and visual contact with the youth.
- (6) Observations of the youth's behavior and any staff interventions shall be documented at least once every 15 minutes, with the actual time of the observation or intervention recorded.

DOC 346.43 Fire safety and emergency preparedness.

- (1) The facility shall comply with applicable federal, state, and local fire safety codes.

- (2) The facility shall have and shall properly maintain self-contained breathing apparatuses and fire extinguishers sufficient to support the need of the facility as determined by the local fire department. The facility shall place the equipment in accordance with the advice of the local fire department.
- (3) The facility shall maintain a record of all fire inspections conducted as required under sub. (1).
- (4) Staff shall conduct and document monthly fire inspections of the facility.
- (5) A written fire evacuation plan shall be developed and maintained in accordance with recommendations from the local fire department. The evacuation routes developed as a part of the evacuation plan shall be posted in a conspicuous place for staff.
- (6) Fire drills shall be conducted at least quarterly on each shift and documented.
- (7) The facility shall develop and maintain an emergency operations procedure. The procedure shall be readily accessible for staff to reference and shall include instructions for all of the following:
 - (a) Major disturbances.
 - (b) Natural disasters.
 - (c) Physical plant disruptions.
- (8) First aid kits and other emergency response equipment shall be available in designated areas of the facility. Inventories shall be conducted and documented monthly.
- (9) The facility shall have access to an alternate power source to maintain essential services in an emergency. Quarterly tests of the alternate power source shall be conducted and documented.

Subchapter X – Behavior Management

DOC 346.44 Discipline.

- (1) At the time of admission, each youth shall be notified of and provided access to the rules of behavior required in the facility and the potential disciplinary actions imposed for violation of the rules. Documentation of the youth's receipt of the facility rules shall be maintained.
- (2) The facility shall have a graduated array of dispositions to address youth rule violations.
- (3) Disciplinary action shall be determined on an individual basis. Staff shall not use group punishment as a sanction for the negative behavior of an individual youth.
- (4) Youth may not administer rule violation dispositions.
- (5) Staff may consider whether a youth's disability, mental illness, special education status, or limited English proficiency status contributed to the behavior when assigned consequences for violations of the facility's rules.
- (6) Staff may restrict a youth's privileges for a rule violation if all of the following occur:
 - (a) The youth is given the opportunity to explain the circumstances of the alleged violation. The youth's statement or refusal shall be documented.
 - (b) Supervisor or designee shall document their review of the rule, violation, the youth's statement and restriction within 24 hours of the rule violation.
- (7) Dispositions may not include any of the following:
 - (a) Withholding of basic necessities such as food, water, toilet, clothing, sleep, or the use of materials necessary to maintain a basic level of personal hygiene.
 - (b) Denial of access to religious worship, attorneys, privileged mail, courts, legislators, and medical and mental health services.
 - (c) Denial of exercise.
 - (d) Corporal punishment.

DOC 346.45 Disciplinary procedures.

- (1) A staff member who observes a youth committing a rule violation shall inform the youth of the rule that was violated and the disciplinary procedure.
- (2) A staff member shall offer the youth the opportunity to provide a statement. Staff shall document the youth's statement or their refusal to provide a statement.

- (3) Staff shall inform the youth that the disciplinary report and statement will be forwarded to the supervisor or designee within 24 hours of the rule violation.
- (4) An impartial supervisor, who has not personally observed, been a part of, or investigated the incident, shall do the following:
- (a) Review the disciplinary report and the youth's statement, render a decision, and notify the youth within 24 hours of receipt of the report.
 - (b) Document their review.
- (5) The youth shall be notified of their right to appeal the supervisor's decision and the facility's procedure for making an appeal.
- (6) The youth may appeal the decision within 24 hours of receipt of the decision.
- (7) The youth shall receive a written decision no later than 24 hours after receipt of an appeal.
- (8) The facility shall document information on each rule violation by a youth, each disciplinary action taken by the facility, and each appeal. The documentation shall be maintained in the youth's record.

DOC 346.46 Review of behavior management. At least quarterly, the facility shall review the use of behavior management and document this review. The review shall include:

- (1) Identification of any patterns indicated by similarities in the time of day, day of the week, duration of the use of procedure, individuals involved, or other factors associated with the use of discipline.
- (2) Actions needed to correct identified deficiencies in the facility's implementation of youth discipline.
- (3) A review of current options available for addressing and supporting behavior management.
- (4) An assessment of opportunities missed to avoid the use of room confinement and proposed actions to be taken to minimize the use of room confinement.

Subchapter XI – Hygiene and Sanitation

DOC 346.47 Hygiene. The facility shall do all of the following:

- (1) Permit youth to shower at least once per day.
- (2) Provide hygiene and toiletry supplies sufficient for maintenance of cleanliness of the youth including toothpaste, toothbrush, soap and shampoo, shaving materials, comb or hair brush, and feminine hygiene materials.

DOC 346.48 Sanitation.

- (1) Vermin and pests shall be controlled with a 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 youth.
- (2) The facility shall provide youth access to cleaning materials daily.
- (3) Tables used for common use and meals shall be kept sanitized.
- (4) Staff shall conduct and document monthly safety and sanitation inspections of the facility.
- (5) Common use grooming tools shall be disinfected and cleaned before reissue and are stored in a secure area.
- (6) Property storage containers shall be sanitized before reuse.
- (7) Trash shall be removed daily.

Subchapter XII – Youth Portion of a County Jail

DOC 346.49 Admission criteria. Youth may be admitted to a youth portion of a county jail under s. 48.209 or 938.209, Stats., only subject to the following:

- (1) Youth may be held in a youth portion of a county jail for a maximum of 24 hours, not including weekends or holidays, except youth may be held for a maximum of 6 hours, excluding weekends or holidays, in counties that are within a metropolitan statistical area under the current designation of the

federal Bureau of Census.

(2) Youth may be held only for the purposes of identification, processing, and to arrange for release to parents or transfer to juvenile court officials or youth shelter or detention facilities. Any holding of youth shall be limited to the absolute minimum time necessary to complete these purposes, not to exceed the time limits under sub. (1). An alleged or adjudicated delinquent may be detained before a court appearance for a period of time not to exceed the limits under sub. (1). An alleged or adjudicated delinquent may be detained after a court appearance for a time period not to exceed an additional 6 hours. Any hold of an adjudicated delinquent that is not related to a court appearance is prohibited.

(3) Persons who are 18 years of age or older may not be admitted or held in a youth portion of a county jail, unless they are currently only under juvenile court jurisdiction under ch. 938 or 48, Stats.

DOC 346.50 Contact.

(1) There shall be no physical or visual contact between youth and adult inmates in the youth portion of a county jail.

(2) There shall be no sustained sound contact between youth and adult inmates in the youth portion of a county jail.

DOC 346.51 Existing facilities. Existing youth portions of a county jail shall continue to meet the physical requirements for adult jails established in ch. DOC 350.

DOC 346.52 Staffing plan.

(1) An officer supervising youth may not be responsible for supervising more than 30 individuals.

(2) An officer responsible for supervising youth may not be responsible for radio or dispatch duties during the same time period.

(3) An officer of the same gender as the youth being admitted or held in custody shall be on duty in the facility.

(4) At all times an officer shall be within hearing distance of the area in which a youth is confined.

Subchapter XIII – Collocated with a Secured Residential Care Center for Children and Youth

DOC 346.53 Applicability. This subchapter applies to secure youth detention facilities that are collocated with a secured residential care center for children and youth.

DOC 346.54 Staffing plan. Staff responsible for the supervision of youth held in the secure youth detention facility may have responsibility for supervision of youth confined in a secured residential care center for children and youth provided all of the following are met:

(1) The staff member has successfully completed required training specific to each type of facility.

(2) The facility is able to meet the applicable staffing plan of each facility type.

DOC 346.55 Physical space.

(1) A secure youth detention facility may share any of the following areas with a secured residential care center for children and youth:

(a) Receiving room.

(b) Holding room.

(c) Healthcare space.

(d) Receiving space.

(e) Visitation space.

(2) With the exception of special events, a secure youth detention facility may share, but not concurrently use, any of the following areas with a secured residential care center for children and youth:

(a) Multipurpose room.

- (b) Classroom space.
 - (c) Quiet space.
 - (d) Indoor recreation space.
 - (e) Outdoor recreation space.
 - (f) Cafeteria or common space for meals.
 - (g) Food service space under s. DOC 346.09 (12) when used for programming.
- (3) A secure youth detention facility shall not share youth housing with a secured residential care center for children and youth.

Subchapter XIV – Collocated with an Adult Facility

DOC 346.56 Applicability. This subchapter applies to any facility that is collocated with an adult facility.

DOC 346.57 Contact.

- (1) There shall be no physical or sustained visual contact between youth and adult inmates.
- (2) There shall be no sustained sound contact between youth and adult inmates.

DOC 346.58 Staffing plan.

- (1) An officer supervising youth may not be responsible for supervising adult inmates during the same time period.
- (2) An officer responsible for supervising youth may not be responsible for radio or dispatch duties during the same time period.
- (3) An officer of the same gender as the youth being admitted or held in custody shall be on duty in the facility.
- (4) At all times an officer shall be within hearing distance of the area in which a youth is confined.

SECTION 2. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

**WISCONSIN DEPARTMENT OF CORRECTIONS
REPORT FROM AGENCY**

CR 24-065 RULEMAKING REPORT TO LEGISLATURE

BASIS AND PURPOSE OF PROPOSED RULE

The Wisconsin Department of Corrections proposes an order **to repeal and recreate** Chapter DOC 346.

SUMMARY OF PUBLIC COMMENTS AND AGENCY RESPONSE

| Public Comment or Testimony | Department Response |
|--|---------------------|
| It's great that you want to establish minimum standards for these kids. One would hope those standards are far above and beyond the minimum standards for the public schools. Obviously, those standards were far too low or juvenile detention facilities would be unnecessary. You should really consider getting rid of them altogether and trying to figure out how to keep kids in school instead. I don't see any reason to destroy a person before they've reached adulthood. It's really better if DOC stays out of this. Juvenile detention is better handled by experienced child psychologists within the school system and child services. There have been far too many deaths in Wisconsin jails and prisons lately to allow DOC to house ANY children within those walls. You failed them in the schools, and now it's time to give them a real chance at life. Confinement should be used as a last resort, reserved for the most violent criminals- the ones who show no prayer of behavioral change. A child has too long a life ahead of him to have it taken by you. You stole enough from them out of fear of COVID-19 already. Make juvenile detention by DOC illegal instead. DPI and DHS should be handling this. | Comment noted. |

MODIFICATIONS MADE TO THE PROPOSED RULE AS A RESULT OF PUBLIC COMMENT OR TESTIMONY RECIEVED

No modifications were made to the proposed rule as a result of public comment or testimony received.

PERSONS APPEARING OR REGISTERING AT PUBLIC HEARINGS

A public hearing was held on October 11th, 2024 from 11:00 am – 12:00 pm via Teams and teleconference. No persons appeared or registered at the public hearing.

CHANGES TO RULE ANALYSIS AND FISCAL ESTIMATE

No changes were made to the rule analysis or the fiscal estimate and economic impact analysis.

RESPONSE TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

| Legislative Council Comment/Suggestion | Department Response |
|--|---|
| The department should review the variance process described in s. DOC 346.05, as it appears intended to authorize variance | Comment noted. DOC maintains authority under Wis. Stats. 301.36 and 301.37. |

provisions to have the force of law; if this is the department's intent, such alternatives should be promulgated directly through the administrative rule process.

As with comment a., above, does the department intend for the policies and procedures contemplated in s. DOC 346.07(3) to apply with the force of law? If so, such items should be promulgated directly through the administrative rule process.

Comment noted. Under s. 301.37(2), Stats., the department has the authority to review the proposed program to be carried out by an institution. Additionally, under s. 938.22(2)(a), Stats., the department has the authority to promulgate rules establishing minimum requirements for the approval and operation of juvenile detention facilities, secured residential care centers for children and youth, and the juvenile portion of county jails.

Throughout the proposed rule, the department should replace passive language, particularly the repeated use of the phrases "there shall be" and "shall not be", and instead use an active voice that first specifies an actor, such as the "facility", and then identifies the required action.

Some of the passive language throughout the proposed rule has been replaced with active language. However, some changes were not made as much of the language is taken directly from currently promulgated DOC administrative rules (DOC 346, 347, and 350). The correctional audience in Wisconsin is familiar with the current wording of the rules. A statewide committee of stakeholders was convened, and as a matter of professional preference due to extensive knowledge in the field, the department desires to maintain some of the current language.

For brevity, consider deleting the lengthy excerpts of statutory text under the "statutory authority" heading in the rule summary, as that section only requires an agency to identify and cite the specific statutes authorizing rule promulgation. To the extent the content of the statutes cited for authority are instructive, such information is more appropriately placed under the "explanation of agency authority" heading.

Excerpts of statutory text have been deleted.

Under the headings of "explanation of agency authority" and "related statute or rule" in the rule summary, modify the format of the citations to be consistent with s. 1.15 (2) (Table), Manual, including inserting "DOC" in the reference to ch. DOC 301, Wis. Adm. Code.

References have been updated.

In the rule summary's plain language analysis, consider explaining why the proposed rule establishes different standards for a facility's physical environment depending on the applicable time period.

This explanation has been added to the rule summary's plain language analysis.

Because the proposed rule governs situations in which youth may be detained in a youth portion of a county jail or a facility collocated with an adult facility, consider whether the rule summary should reference the federal Juvenile Justice and Delinquency Prevention Act, codified as 34 U.S.C. ch. 111, under the heading "summary of, and comparison with, existing or proposed federal statutes and regulations."

The reference to 34 U.S.C. ch. 111 has been added.

Under current law, ch. DOC 346 (Note 2) explains that the chapter applies to both the department and the Department of Children and Families to the extent that agency has authority under specified statutes. The proposed rule contains a similar note but only with respect to subch. VII of ch. DOC 346. Is this consistent with the department's intent? Also, regardless of its location, consider whether the provision should be included in a section describing applicability, give that notes may not include substantive requirements, are not part of the substantive rule, and do not have the effect of law.

This note has been removed from ch. DOC 346.

Both ss. DOC 346.01 and 346.03 reference youth detention facilities, youth portions of county jails, and youth detention portions of a secured residential care center for children and youth, all of which are terms defined individually, and included in the more general definition of "facility", under s. DOC 346.04. However, subch. XIV of ch. DOC 346 is titled "collocated with an adult facility", a concept that is neither referenced in ss. DOC 346.01 and 346.03, nor defined in s. DOC 346.04. Is this consistent with the department's intent?

An 'applicability' provision has been added to this subchapter to clarify the department's intent.

In s. DOC 346.04(1), remove the phrase "but not limited to".

This language has been removed.

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| In s. DOC 346.04(12), consider modifying the definition of “force” to better align with the substantive requirements of s. DOC 346.61 governing use of force by staff. For example, consider replacing “between staff and youth to overcome resistance” with “by staff to overcome a youth’s resistance.” | Rejected. DOC prefers to keep the definition of “force” as currently written. |
| In the definition of “youth” under s. DOC 346.04(33), should the defined term “facility” replace “youth detention facility”, given that the term “youth” is used in the context of other facilities besides a “youth detention facility” in parts of the proposed rule? | Accepted. |
| In s. DOC 346.04 (34), the statutory reference should include the source notation “Stats.” | Accepted. |
| The term “gender” is used throughout the proposed rule, but the word “sex” rather than “gender” is required among the identifying information required under s. DOC 346.06(1). Is this consistent with the department’s intent? | The language in s. DOC 346.06(1) has been updated. |
| In s. DOC 346.06(3)(f), the abbreviation “s.” should be inserted before the reference to “DOC 346.7(2).” | This language has been updated. |
| In s. DOC 346.07(3), replace “through” with “to” when referring to the series of code provisions. | This language has been updated. |
| To avoid duplication, consider whether s. DOC 346.09(3)(c)3. Should be deleted and merged with s. DOC 346.09(3)(d)2. to read: Dayrooms shall provide a minimum of 35 square feet per youth that have access to the dayroom, in addition to the number of square feet of unencumbered space required for sleeping rooms under pars. (3)(a) and (b) and dormitories under par. (3)(c).” Notes, however, that this example assumes that the department intends for the dayroom square footage to be in addition to sleeping room square footage, even though the current proposed rule does not include any language under s. DOC 346.09(3)(a) or (b) that parallels s. DOC 346.09(3)(c)3. | Rejected. These duplications are purposeful. |
| Consider deleting s. DOC 346.09(3)(c)5. because it governs dayrooms but is located in the paragraph governing dormitories, and because it duplicates s. DOC 346.09(3)(d)3., which is already locked in the paragraph governing dayrooms. | Rejected. These duplications are purposeful. |
| When referring to adequate lighting in various contexts throughout the proposed rule, the department uses the following styles: “30-footcandles”, “10 foot candles”, and “10 foot-candles.” The department should use the same style throughout the proposed rule for consistency. Also, with respect to lighting, the proposed rule contains several references to “30 inches above the floor” immediately after references to the applicable level of illumination. The proposed rule text could be revised for better clarity that the light fixtures must be located 30 inches above the floor, assuming that is consistent with the department’s intent. | The language related to foot-candles has been updated for consistency. The other language has not been updated as the department believes this language is clear to this correctional audience. |
| In s. DOC 346.09(6)(a), replace “programming and services” with “a multipurpose room” to employ the term defined under s. DOC 346.04(17) to include that phrase. | Rejected. The department prefers this language to stay as currently written. |
| In both s. DOC 346.09(9)(a) and (10)(a), insert “recreation” before “space” to use the defined term of “recreation space” under s. DOC 346.04(26). | Rejected. The department prefers this language to stay as currently written. |
| Consider renumbering s. DOC 346.09(10)(b) to (e) to s. DOC 346.09(10)(b) (intro.) and 1. to 4., to read: “(b) The space described in par. (a) must meet the following requirements: 1. Have a minimum of 70 square feet of unencumbered space. 2. Ensure the privacy of the youth. 3. Have a secure perimeter. 4. Have the ability to detect or deter contraband from entering the space.” Note that, beyond renumbering and using subunits to avoid repetitive text, this example modifies the current text to use the defined terms of “unencumbered space” and “secure perimeter.” | Accepted. |

In s. DOC 346.09(15) and (16), consider reworking the language to incorporate the phrase “each window” in the introductory text so as to avoid the redundancy of “each window shall” in the subunits. For example, s. DOC 346.09(15) (intro.) could state: “Each window that leads to the exterior of the facility or an area outside of the secure perimeter of the facility must meet all of the following requirements:”.

Accepted.

Under s. DOC 346.09(17), door exits must have a threshold designed to prevent the introduction of contraband, but no such requirement applies to entrances. Is this consistent with the department’s intent?

The department believes the current language is clear to this correctional audience and meets the department’s intent.

The term “youth housing area” appears in s. DOC 346.09(19)(c) and (22) but that term is not defined. Because “youth housing” is the title for s. DOC 346.09(3), it seems that any space contemplated in that subsection would constitute “youth housing.” Depending on the department’s intent, consider cross-referencing to sub. (3) where that term is used in subs. (19) and (22), or creating a definition for that phrase in s. DOC 346.04.

The department believes the current language is clear to this correctional audience.

Under current law, s. DOC 346.02 states that the chapter generally applies to “juvenile detention facilities and juvenile portions or a county jail.” However, with respect to physical environment, current s. DOC 346.02 states: “Unless otherwise specified, s. DOC 346.14 applies only to facilities constructed or substantially remodeled after October 1, 1994.” As noted by the phrase “unless otherwise specified”, current s. DOC 346.14 contains certain requirements that apply only to facilities constructed or substantially remodeled after November 1, 2010, specifically the requirements that upper bunks have an anti-rollout plate and that classroom space be designed in conformity with local or state educational requirements. [See s. DOC 346.14(3)(f)6. and (11), Wis. Adm. Code.] In addition, current s. DOC 346.15(3) specifies certain requirements for “double ceiling” that differ depending on the time period in which a facility was constructed or substantially remodeled, related specifically to minimum floor areas and anti-rollout plates. Unlike current law, the proposed rule seeks to create stand-alone sections (ss. DOC 346.10 and 346.11) governing facilities based on the various time periods, rather than relying on specific dates being carved as exceptions within a general default rule. While this approach may provide better clarity (particularly in light of the proposed rule creating a third set of regulations for facilities constructed on or after the proposed rule’s effective date), the department should consider the following questions and comments:

1. Rejected. These terms are defined in Wis. Stat. 938.
2. Accepted.
3. Rejected. The department believes the current language is clear to this correctional audience.
4. Rejected. The department believes the current language is clear to this correctional audience.
5. Rejected. DOC 346 has been promulgated at various times over the years which correspond to the different dates stipulated in the rule. This allows those facilities constructed at different time periods to maintain their authorization for occupancy as the physical environments under the different versions of DOC 346 changed over the past decades. Without the grandfathering of the facilities built under the rule at the time, the county would have to meet the physical environment standards of this proposed rule which is neither realistic or practical.
6. Rejected. DOC 346 has been promulgated at various times over the years which correspond to the different dates stipulated in the rule. This allows those facilities constructed at different time periods to maintain their authorization for occupancy as the physical environments under the different versions of DOC 346 changed over the past decades. Without the grandfathering of the facilities built under the rule at the time, the county would have to meet the physical environment standards of this proposed rule which is neither realistic or practical

1. The provisions of ss. DOC 346.10 and 346.11 use terms that are defined under current ch. DOC 346 but are not defined in the proposed rule, such as “juvenile”, “cell”, and “juvenile detention facility”, among others. To the extent the department seeks to allow for continued application of definitions otherwise repealed by the proposed rule, it should include all relevant definitions to achieve consistency and clarify relevant terminology.
2. Because titles are not substantive, add a subsection to both ss. DOC 346.10 and 346.11 that substantively expresses the applicability of those respective sections, similar to s. DOC 346.09(1).
3. In the proposed rule, s. DOC 346.10 appears to essentially mirror the text of ss. DOC 346.14 and 346.15 under current law, but by doing so, continues to reference dates that are no longer within the applicable scope of s. DOC 346.10 or are no longer necessary to

state. For example, s. DOC 346.10(3)(c)1. a. and b. reference dates that are no longer within the scope of the specific section, but instead are covered under s. DOC 346.11. Also, s. DOC 346.10(3)(c)6., (4)(f)6., and (12) include dates that are unnecessary to restate in light of the section's applicability.

4. Similarly, s. DOC 346.11(3)(c)1. specifies a date that seems unnecessary in light of that section's applicability.
5. Under current law, s. DOC 346.14 applies to facilities constructed or substantially remodeled after October 1, 2014, without specifying any end date, other than the few references to November 1, 2010, mentioned above. In other words, the date of November 1, 2010 is significant in very few contexts under current ch. DOC 346, with the remaining substance of s. DOC 346.14 applying, then, to facilities constructed or substantially remodeled after October 1, 2014 to present. In the proposed rule, the creation of two stand-alone provisions governing the different time periods results in a lengthy rule, with many of the provisions of ss. DOC 346.10 and 346.11 being the same. To reduce the rule's length, the department could consider creating one stand-alone section governing the physical environment for all facilities constructed or substantially remodeled after October 1, 2014, and before the rule's effective date, with another, much shorter, section that lists the limited exceptions to which the general rule would not apply.
6. If the department maintains the two stand-alone section, it should confirm that the provisions are identical where intended, as it seems some substantive differences exist among ss. DOC 346.10 and 346.11 that do not exist under current ch. DOC 346 for those time periods. Is this consistent with the department's intent? For example, under current law, s. DOC 346.14(15) requires all facilities constructed or substantially remodeled after October 1, 1994, to provide "sufficient space for visitation." This provision does not contain any other date limitations. However, under the proposed rules, s. DOC 346.10(16) contains this requirement, but no such provision is included in s. DOC 346.11, meaning that under the proposed rule, sufficient space for visitation is only required in facilities constructed on or after November 1, 2010.

Is s. DOC 346.11(12) intended to replace other requirements of s. DOC 346.11, or apply in addition to those other requirements?

This provision, as written, maintains what was previously required.

Throughout the proposed rule, use defined terms to avoid confusion. For example, in s. DOC 346.12, the defined term "youth detention facility" is used in sub. (1), but the broader defined term of "facility" is used in the remainder of the section. In addition, the phrase "the facility" is used exclusively in ss. DOC 346.13 to 346.48. Other sections do not use a specified term, making it unclear to whom the section's requirements apply, such as s. DOC 346.17, particularly with the use of the passive "shall be" phrasing.

Accepted in part. Classification is a cornerstone principle in every correctional setting and does not require further clarification.

Consider dividing the text of s. DOC 346.19(1) into separate subsections, due to length but also to better specify the facility's obligation to complete the form at admission. Similarly, consider moving the section sentence of s. DOC 346.19(2) to its own subsection, as it applies regardless of whether screening occurs within one hour of admission. Also, in that sentence,

Rejected. The department believes the current language is clear to this correctional audience.

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| consider replacing “youth screens positive” to “youth’s screening indicates” to use the language of s. DOC 346.23. | |
| In s. DOC 346.20(1), delete the phrase “by qualified health care professional”, as the definition of “health care assessment” under s. DOC 346.04(13) includes that requirement. | Rejected. The department believes the current language is clear to this correctional audience. |
| Consider modifying s. DOC 346.23(1) (title) to read “RISK OF SUICIDE OR SELF-HARM” to be consistent with other terminology throughout that section and s. DOC 346.19. | Accepted. |
| In s. DOC 346.28(5), consider replacing “non-privileged letters” with “letters that are not privileged mail” to employ the term “privileged mail” defined under s. DOC 346.04(21). | Rejected. The department believes the current language is clear to this correctional audience. |
| Because s. DOC 346.09(9) and (10) require recreation spaces that can accommodate “a variety of individual and group aerobic and large-muscle exercise activities and physical education”, the department could consider similar language when describing the types of activities to which youth must have access under s. 346.37(2)(b). | Rejected. The department believes the current language is clear to this correctional audience and does not want to list all the different types of exercise. This would be reflected in the school’s handbook as well. |
| Consider adding an active requirement to s. DOC 346.38(3) relating to tool control, such as: “The facility shall establish protocols for tool control.” As written, that provisions seem to define the scope of tool control, and does not actively require a facility to engage in tool control. | Rejected. The department believes the current language is clear to this correctional audience. |
| The purposes for which a facility may use administrative confinement under s. DOC 346.40(1)(a) to (c) appear to be broader than the definition of “administrative confinement” under s. DOC 346.04(1). Consider revising one or both of the provisions for consistency. | Rejected. S. DOC 346.04(1) is the definition while 346.40. (1)(a) to (c) is the operational plan outline requirements. The requirements do not need to be included within the definition. |
| Consider clarifying the term “room confinement” that appears in ss. DOC 346.40(7)(c) and 346.46(4), but is not defined. For example, it is unclear whether the department intends that term to be synonymous with “administrative confinement” or whether it is a specific type of “administrative confinement” that is required to occur in a youth’s room. If the latter, is the term “room” intended to be synonymous with “sleeping room”, as defined in s. DOC 346.04(28)? | Rejected. The department believes the current language is clear to this correctional audience. |
| Consider deleting the adjective “physical” throughout s. DOC 346.41(1), in light of the definition of “force” under s. DOC 346.04(12). Also, if the department does not modify the definition of “force” as suggested in comment 2.i. above, then consider modifying s. DOC 346.41(1)(a) to use active voice and specify that “Staff may not use force as...” | Accepted. |
| Section DOC 346.49 contains terms that are not defined in the proposed rule, such as “youth shelter or detention facilities” and “adjudicated delinquent.” Consider creating defined terms or cross-referencing statutory definitions. | Rejected. The department believes the current language is clear to this correctional audience. |
| Given the title, it seems the department intends for subch. XIII of ch. DOC 346 to apply to a “youth detention portion or a secured residential care center for children and youth” based on the definition of that term in s. DOC 346.04(35). However, that defined term is neither used in the title nor throughout the subchapter. Consider modifying the title to use the defined term and further modifying the subchapter’s sections to use the defined term where appropriate. | Accepted. |
| Related to comment 2. g and similar to comment 2. kk above, subch. XIV of ch. DOC 346 is titled “Collocated within an Adult Facility” but that term is neither defined nor referenced in that subchapter or more broadly in the proposed rule. While it seems that term may be intended to encompass a “youth portion of a county jail”, subch. XII of ch. DOC 346 already governs such facilities and contains nearly identical provisions. Depending on the department’s intent, the proposed rule should be modified to reconcile the concepts of “youth portion of a | Accepted; revisions were made to this subchapter. |

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| county jail” and “collocated with an adult facility.” | |
| In s. DOC 346.02, the referenced statutes differ from those specified in the relevant portions of the rule summary. For consistency, consider whether to modify the rule’s text, the rule summary, or both. | Accepted. |
| Section DOC 346.21(1) references s. 938.505(1), Stats., which specifies certain duties of the department or the county department, as applicable, including to provide “ordinary medical and dental care for the juvenile, subject to the rights, duties, and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and the provisions of any court order.” While this statute applies regardless of the code’s provisions, the department could consider whether s. DOC 346.21 should acknowledge any applicable rights of a youth’s parent or guardian, as contemplated under s. 938.505(1), Stats., and s. DOC 346.23(1) under current law. This same comment applies to s. DOC 346.22, in terms of considering whether to acknowledge circumstances in which a parent or guardian may have authority over related decisions under state law. | Accepted in part; some revisions were made to these provisions |
| For clarity, consider adding cross-references, where applicable, to other rules in s. DOC 346.23. For example, it may be helpful to clarify the relationship with the screening requirement in s. DOC 346.19. In other words, is the requirement under s. DOC 346.23(1)(a) in addition to the screening requirement under s. DOC 346.19? As another example, is the requirement under s. DOC 346.23(1) required at the time of admission as part of the health screening referenced under s. DOC 346.12(6)? | Rejected. The department believes the current language is clear to this correctional audience. |
| After the phrase “corresponding wellness checks” in s. DOC 346.42(4), consider adding a cross-reference to s. DOC 346.39(1)(c) to provide clearer guidance as to the meaning of “corresponding” nature of those checks, assuming the department intends for that phrase to refer to the “continuous personal observation” required under s. DOC 346.39(1)(c) when a youth is mechanically restrained for non-routine purposes. | Accepted. |
| In s. DOC 346.44(2), consider adding an internal cross-reference to the dispositional exceptions provided later in that section, such as “...violations, subject to sub. (7).” | Rejected. The department believes the current language is clear to this correctional audience. |
| Because s. DOC 346.44(6)(a) and (b) describe the procedural requirements for restricting a youth’s privileges based on a rule violation, the department could consider deleting the subunits and instead cross-referencing the nearly identical requirements of s. DOC 346.45(2) to (5). For example, sub. (6) could read: “Staff may restrict a youth’s privileges for a rule violation only after complying with the requirements under [insert appropriate cross-references.]” | Rejected. There is a need for duplication within the rule, including this reference. It is our intent to ensure and emphasize proper procedures when reviewing youth discipline. |
| Section DOC 346.51 cross-references other code chapters governing physical requirements. The department may consider adding similar cross-references to ch. DOC 347 in subch. XII of ch. DOC 346, and to ch. DOC 350 in subch. XIV of ch. DOC 346 (but see comment 2. kk) assuming the application of those standards are consistent with the department’s intent. | Rejected. The department believes the current language is clear to this correctional audience. Administrative rule, DOC 347, does not address this matter in the context of the language of the proposed rule as there is no reference of a youth portion of county jail outside of the current DOC 346. Administrative rule, DOC 350, does not address this matter in the context of the language of the proposed rule as there is no reference of a youth portion of county jail outside of the current DOC 346. |
| In the last paragraph of the rule summary’s plain language analysis, insert “for” prior to “the collocation with an adult facility” for grammatical consistency among the listed settings. Alternatively, insert “and” after “county jail.” | Accepted; change made. |
| Because s. DOC 346.03 lists a series of three defined terms, delete the first use of “and” and insert a comma after each term except the last. | Accepted; change made. |
| In s. DOC 346.04(4), consider using “classification system” as | Rejected. The department believes the current language is clear |

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| the defined term, for better clarity and grammar when used in the context of s. DOC 346.13. | to this correctional audience. |
| In the definition of “secure perimeter” under s. DOC 346.04(27), replace “center” with “facility” to use the defined term. Also, for grammatical consistency, insert “of” or “outer boundary of” after the first use of the word “or.” Finally, consider whether this definition uses other intended defined terms. | Accepted; changes made. |
| In s. DOC 346.04(29), use the singular, rather than the plural, form of the defined term itself and the individuals included in the definition. Also, consider replacing “family member” with “relative given that term’s use throughout ch. 938, Stats., as defined in s. 938.02(15), Stats. | Accepted; changes made. |
| In s. DOC 346.09(2)(s), the phrase “locking mechanism housings” is unclear. Does the department intend for this to apply to both locking mechanisms and their housings, or just the housings? | Rejected. The department believes the current language is clear to this correctional audience. |
| In s. DOC 346.06(3) (intro.), replace “occur” with “occurs” for proper subject-verb agreement. | Accepted; change made. |
| Throughout the proposed rule, is the use of the term “substantially remodeled” sufficiently clear so as to inform the reader which time-specific provisions of the rule will apply to a particular facility? | Yes. The department works closely with the counties and works with them on any construction projects from design to occupancy. Based upon the department’s professional judgement of the nature of a proposed project, a determination of substantially remodeled is made in conjunction with the county entity. |
| When describing the square footage requirements for holding rooms in ss. DOC 346.09(5)(a) and 346.11(10)(c)3., consider using the phrasing used in s. DOC 346.10(6)(b)3. for better readability. | Accepted for DOC 346.09; rejected for DOC 346.11. |
| Fix the typographical error in s. DOC 346.09(12) by replacing “melas” with “meals.” | Accepted; changes made. |
| Consider rephrasing s. DOC 346.09(14) for clarity. Is the intent to require each facility to provide a dedicated visitation space that allows for contact among youth and visitors? | Accepted; changes made. |
| Is s. DOC 346.09(19)(c), replaced “are to” with “shall.” Also, is the directive that interior walls be constructed “tight to the structure” sufficiently instructive? | Accepted; correction made to shall. The department believes the language regarding “tight to the structure” is clear to this correctional audience. |
| In s. 346.12, what is the standard for proficiency that would trigger subs. (4) and (5)? | This is determined by the county and the needs of the individual youth. |
| In s. DOC 346.12(7), through the use of “both”, does the department intend for a youth to be provided a written and verbal orientation or a video orientation, or a written and verbal orientation or written and video orientation? | The department’s intent is known to the counties and believes that there are no concerns with the current language. |
| In s. DOC 346.15, modify the subunits to eliminate passive voice, and in sub. (5), insert a verb to match the structure of the other subunits. For example, sub. (5) could read: “A supervisor or designee shall be physically on site during every shift at the facility.” | Rejected. The department believes the current language is clear to this correctional audience. |
| In s. DOC 346.16, replace “including” with “that includes.” | Accepted. |
| Modify s. DOC 346.17(title) to be written with only an initial capital letter. | Accepted. |
| In s. DOC 346.17, is “sharps” intended to be a noun? Consider clarifying the nature of the type of items that a facility must document and account for inventory. | The term “sharps” is universal in the corrections profession for both jails and prisons. There is no need for a definition that would have to expound on items that, currently, is indefinite, and will only expand over the years unfortunately. |
| In s. DOC 346.18, replace “are” with “shall be” or rework the sentence to avoid passage voice and state “The facility shall...” | Accepted, changes made. |
| In s. DOC 346.23, consider replacing “a suicide or self-harm risk” with “at risk for suicide or self-harm” to avoid creating a noun designation and for consistency with other phrasing throughout the action. | Rejected. The department believes the current language is clear to this correctional audience. |
| For clarify, consider specifying the types of communication | Rejected. The department does not want to limit and define |

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| contemplated under s. DOC 346.29. | types of communication as technology continue to expand. |
| Modify s. DOC 346.41(2)(d) to read "...the role of, notification to, and follow-up by qualified..." | DOC does not want to limit and define types of communication as technology continue to expand. |

FINAL REGULATORY FLEXIBILITY ANALYSIS

The Department of Correction has determined that the rule will not have a significant economic impact on a substantial number of small business since the rule does not regulate small businesses as that term is defined in s. 227.114, Stats.



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **24-065**

AN ORDER to repeal and recreate ch. DOC 346, relating to secure detention for juveniles.

Submitted by **DEPARTMENT OF CORRECTIONS**

09-11-2024 RECEIVED BY LEGISLATIVE COUNCIL.

10-08-2024 REPORT SENT TO AGENCY.

SG:AO

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES ☒ NO ☐

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES ☒ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES ☐ NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES ☒ NO ☐

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES ☒ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES ☐ NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES ☐ NO ☒



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CLEARINGHOUSE RULE 24-065

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

a. The department should review the variance process described in s. DOC 346.05, as it appears intended to authorize variance provisions to have the force of law; if this is department’s intent, such alternatives should be promulgated directly through the administrative rule process.

b. As with comment a., above, does the department intend for the policies and procedures contemplated in s. DOC 346.07 (3) to apply with the force of law? If so, such items should be promulgated directly through the administrative rule process.

2. Form, Style and Placement in Administrative Code

a. Throughout the proposed rule, the department should replace passive language, particularly the repeated use of the phrases “there shall be” and “shall not be”, and instead use an active voice that first specifies an actor, such as the “facility”, and then identifies the required action. [s. 1.05 (1) (d), Manual.]

b. For brevity, consider deleting the lengthy excerpts of statutory text under the “statutory authority” heading in the rule summary, as that section only requires an agency to identify and cite the specific statutes authorizing rule promulgation. To the extent the content of the statutes cited for authority are instructive, such information is more appropriately placed under the “explanation of agency authority” heading.

c. Under the headings of “explanation of agency authority” and “related statute or rule” in the rule summary, modify the format of the citations to be consistent with s. 1.15 (2) (Table), Manual, including inserting “DOC” in the reference to ch. DOC 301, Wis. Adm. Code.

d. In the rule summary’s plain language analysis, consider explaining why the proposed rule establishes different standards for a facility’s physical environment depending on the applicable time period.

e. Because the proposed rule governs situations in which youth may be detained in a youth portion of a county jail or a facility collocated with an adult facility, consider whether the rule summary should reference the federal Juvenile Justice and Delinquency Prevention Act, codified as 34 U.S.C. ch. 111, under the heading “summary of, and comparison with, existing or proposed federal statutes and regulations”.

f. Under current law, ch. DOC 346 (Note 2) explains that the chapter applies to both the department and the Department of Children and Families to the extent that agency has authority under specified statutes. The proposed rule contains a similar note but only with respect to subch. VII of ch. DOC 346. Is this consistent with the department’s intent? Also, regardless of its location, consider whether the provision should be included in a section describing applicability, given that notes may not include substantive requirements, are not part of the substantive rule, and do not have the effect of law. [s. 1.12 (1) (c), Manual.]

g. Both ss. DOC 346.01 and 346.03 reference youth detention facilities, youth portions of county jails, and youth detention portions of a secured residential care center for children and youth, all of which are terms defined individually, and included in the more general definition of “facility”, under s. DOC 346.04. However, subch. XIV of ch. DOC 346 is titled “collocated with an adult facility”, a concept that is neither referenced in ss. DOC 346.01 and 346.03, nor defined in s. DOC 346.04. Is this consistent with the department’s intent? For related questions, see comment 2.11.

h. In s. DOC 346.04 (1), remove the phrase “but not limited to”. [s. 1.07 (3) (b), Manual.]

i. In s. DOC 346.04 (12), consider modifying the definition of “force” to better align with the substantive requirements of s. DOC 346.61 governing use of force by staff. For example, consider replacing “between staff and youth to overcome resistance” with “by staff to overcome a youth’s resistance”. For related comments, see comment 2. ii.

j. In the definition of “youth” under s. DOC 346.04 (33), should the defined term “facility” replace “youth detention facility”, given that the term “youth” is used in the context of other facilities besides a “youth detention facility” in parts of the proposed rule?

k. In s. DOC 346.04 (34), the statutory reference should include the source notation “Stats.”. [s. 1.15 (2) (Table), Manual.]

l. The term “gender” is used throughout the proposed rule, but the word “sex” rather than “gender” is required among the identifying information required under s. DOC 346.06 (1). Is this consistent with the department’s intent?

m. In s. DOC 346.06 (3) (f), the abbreviation “s.” should be inserted before the reference to “DOC 346.7 (2)”. [s. 1.15 (2) (Table), Manual.]

n. In s. DOC 346.07 (3), replace “through” with “to” when referring to the series of code provisions. [s. 1.08 (1) (h), Manual.]

o. To avoid duplication, consider whether s. DOC 346.09 (3) (c) 3. should be deleted and merged with s. DOC 346.09 (3) (d) 2. to read: “Dayrooms shall provide a minimum of 35 square feet per youth that have access to the dayroom, in addition to the number of square feet of unencumbered space required for sleeping rooms under pars. (3) (a) and (b) and dormitories under par. (3) (c).”. Note, however, that this example assumes that the department intends for the dayroom square footage to be in addition to sleeping room square footage, even though the current

proposed rule does not include any language under s. DOC 346.09 (3) (a) or (b) that parallels s. DOC 346.09 (3) (c) 3.

p. Consider deleting s. DOC 346.09 (3) (c) 5. because it governs dayrooms but is located in the paragraph governing dormitories, and because it duplicates s. DOC 346.09 (3) (d) 3., which is already located in the paragraph governing dayrooms.

q. When referring to adequate lighting in various contexts throughout the proposed rule, the department uses the following styles: “30-footcandles”, “10 foot candles”, and “10 foot-candles”. The department should use the same style throughout the proposed rule for consistency. Also, with respect to lighting, the proposed rule contains several references to “30 inches above the floor” immediately after references to the applicable level of illumination. The proposed rule text could be revised for better clarity that the light fixtures must be located 30 inches above the floor, assuming that is consistent with the department’s intent.

r. In s. DOC 346.09 (6) (a), replace “programming and services” with “a multipurpose room” to employ the term defined under s. DOC 346.04 (17) to include that phrase.

s. In both s. DOC 346.09 (9) (a) and (10) (a), insert “recreation” before “space” to use the defined term of “recreation space” under s. DOC 346.04 (26).

t. Consider renumbering s. DOC 346.09 (10) (b) to (e) to s. DOC 346.09 (10) (b) (intro.) and 1. to 4., to read: “(b) The space described in par. (a) must meet the following requirements: 1. Have a minimum of 70 square feet of unencumbered space. 2. Ensure the privacy of the youth. 3. Have a secure perimeter. 4. Have the ability to detect or deter contraband from entering the space.”. Note that, beyond renumbering and using subunits to avoid repetitive text, this example modifies the current text to use the defined terms of “unencumbered space” and “secure perimeter”.

u. In s. DOC 346.09 (15) and (16), consider reworking the language to incorporate the phrase “each window” in the introductory text so as to avoid the redundancy of “each window shall” in the subunits. For example, s. DOC 346.09 (15) (intro.) could state: “Each window that leads to the exterior of the facility or to an area outside of the secure perimeter of the facility must meet all of the following requirements:”.

v. Under s. DOC 346.09 (17), door exits must have a threshold designed to prevent the introduction of contraband, but no such requirement applies to entrances. Is this consistent with the department’s intent?

w. The term “youth housing area” appears in s. DOC 346.09 (19) (c) and (22) but that term is not defined. Because “youth housing” is the title for s. DOC 346.09 (3), it seems that any space contemplated in that subsection would constitute “youth housing”. Depending on the department’s intent, consider cross-referencing to sub. (3) where that term is used in subs. (19) and (22), or creating a definition for that phrase in s. DOC 346.04.

x. Under current law, s. DOC 346.02 states that the chapter generally applies to “juvenile detention facilities and juvenile portions of a county jail”. However, with respect to physical environment, current s. DOC 346.02 states: “Unless otherwise specified, s. DOC 346.14 applies only to facilities constructed or substantially remodeled after October 1, 1994.”. As noted by the phrase “unless otherwise specified”, current s. DOC 346.14 contains certain requirements that apply only to facilities constructed or substantially remodeled after November 1, 2010, specifically the requirements that upper bunks have an anti-rollout plate and that classroom space be designed in conformity with local or state educational requirements. [See s. DOC 346.14 (3) (f) 6. and (11),

Wis. Adm. Code.] In addition, current s. DOC 346.15 (3) specifies certain requirements for “double celling” that differ depending on the time period in which a facility was constructed or substantially remodeled, related specifically to minimum floor areas and anti-rollout plates. Unlike current law, the proposed rule seeks to create stand-alone sections (ss. DOC 346.10 and 346.11) governing facilities based on the various time periods, rather than relying on specific dates being carved as exceptions within a general default rule. While this approach may provide better clarity (particularly in light of the proposed rule creating a third set of regulations for facilities constructed on or after the proposed rule’s effective date), the department should consider the following questions and comments:

- (1) The provisions of ss. DOC 346.10 and 346.11 use terms that are defined under current ch. DOC 346 but are not defined in the proposed rule, such as “juvenile”, “cell”, and “juvenile detention facility”, among others. To the extent the department seeks to allow for continued application of definitions otherwise repealed by the proposed rule, it should include all relevant definitions to achieve consistency and clarify relevant terminology. [See s. 1.07 (1) (3), Manual.]
- (2) Because titles are not substantive, add a subsection to both ss. DOC 346.10 and 346.11 that substantively expresses the applicability of those respective sections, similar to s. DOC 346.09 (1). [s. 1.10 (2) (a) 1., Manual.]
- (3) In the proposed rule, s. DOC 346.10 appears to essentially mirror the text of ss. DOC 346.14 and 346.15 under current law, but by doing so, continues to reference dates that are no longer within the applicable scope of s. DOC 346.10 or are no longer necessary to state. For example, s. DOC 346.10 (3) (c) 1. a. and b. reference dates that are no longer within the scope of the specific section, but instead are covered under s. DOC 346.11. Also, s. DOC 346.10 (3) (c) 6., (4) (f) 6., and (12) include dates that are unnecessary to restate in light of the section’s applicability.
- (4) Similarly, s. DOC 346.11 (3) (c) 1. specifies a date that seems unnecessary in light of that section’s applicability.
- (5) Under current law, s. DOC 346.14 applies to facilities constructed or substantially remodeled after October 1, 2014, without specifying any end date, other than the few references to November 1, 2010, mentioned above. In other words, the date of November 1, 2010 is significant in very few contexts under current ch. DOC 346, with the remaining substance of s. DOC 346.14 applying, then, to facilities constructed or substantially remodeled after October 1, 2014, to present. In the proposed rule, the creation of two stand-alone provisions governing the different time periods results in a lengthy rule, with many of the provisions of ss. DOC 346.10 and 346.11 being the same. To reduce the rule’s length, the department could consider creating one stand-alone section governing the physical environment for all facilities constructed or substantially remodeled after October 1, 2014, and before the rule’s effective date, with another, much shorter, section that lists the limited exceptions to which that general rule would not apply.
- (6) If the department maintains the two stand-alone sections, it should confirm that the provisions are identical where intended, as it seems some substantive differences exist among ss. DOC 346.10 and 346.11 that do not exist under current ch. DOC 346 for those time periods. Is this consistent with the department’s intent? For

example, under current law, s. DOC 346.14 (15) requires all facilities constructed or substantially remodeled after October 1, 1994, to provide “sufficient space for visitation”. This provision does not contain any other date limitations. However, under the proposed rules, s. DOC 346.10 (16) contains this requirement, but no such provision is included in s. DOC 346.11, meaning that under the proposed rule, sufficient space for visitation is only required in facilities constructed on or after November 1, 2010.

y. Is s. DOC 346.11 (12) intended to replace other requirements of s. DOC 346.11, or apply in addition to those other requirements?

z. Throughout the proposed rule, use defined terms to avoid confusion. For example, in s. DOC 346.12, the defined term “youth detention facility” is used in sub. (1), but the broader defined term of “facility” is used in the remainder of the section. In addition, the phrase “the facility” is used exclusively in ss. DOC 346.13 to 346.48. Other sections do not use a specified term, making it unclear to whom the section’s requirements apply, such as in s. DOC 346.17, particularly with the use of passive “shall be” phrasing.

aa. Consider dividing the text of s. DOC 346.19 (1) into separate subsections, due to length but also to better specify the facility’s obligation to complete the form at admission. Similarly, consider moving the second sentence of s. DOC 346.19 (2) to its own subsection, as it applies regardless of whether screening occurs within one hour of admission. Also, in that sentence, consider replacing “youth screens positive” to “youth’s screening indicates” to use the language of s. DOC 346.23.

bb. In s. DOC 346.20 (1), delete the phrase “by a qualified health care professional”, as the definition of “health care assessment” under s. DOC 346.04 (13) includes that requirement.

cc. Consider modifying s. DOC 346.23 (1) (title) to read “RISK OF SUICIDE OR SELF-HARM” to be consistent with other terminology throughout that section and s. DOC 346.19.

dd. In s. DOC 346.28 (5), consider replacing “non-privileged letters” with “letters that are not privileged mail” to employ the term “privileged mail” defined under s. DOC 346.04 (21).

ee. Because s. DOC 346.09 (9) and (10) require recreation spaces that can accommodate “a variety of individual and group aerobic and large-muscle exercise activities and physical education”, the department could consider similar language when describing the types of activities to which youth must have access under s. DOC 346.37 (2) (b).

ff. Consider adding an active requirement to s. DOC 346.38 (3) relating to tool control, such as: “The facility shall establish protocols for tool control.”. As written, that provision seems to define the scope of tool control, and does not actively require a facility to engage in tool control.

gg. The purposes for which a facility may use administrative confinement under s. DOC 346.40 (1) (a) to (c) appear to be broader than the definition of “administrative confinement” under s. DOC 346.04 (1). Consider revising one or both of the provisions for consistency. [See s. 1.07 (1) (d), Manual.]

hh. Consider clarifying the term “room confinement” that appears in ss. DOC 346.40 (7) (c) and 346.46 (4), but is not defined. For example, it is unclear whether the department intends that term to be synonymous with “administrative confinement” or whether it is a specific type of

“administrative confinement” that is required to occur in a youth’s room. If the latter, is the term “room” intended to be synonymous with “sleeping room”, as defined in s. DOC 346.04 (28)?

ii. Consider deleting the adjective “physical” throughout s. DOC 346.41 (1), in light of the definition of “force” under s. DOC 346.04 (12). Also, if the department does not modify the definition of “force” as suggested in comment 2.i above, then consider modifying s. DOC 346.41 (1) (a) to use active voice and specify that “Staff may not use force as...”.

jj. Section DOC 346.49 contains terms that are not defined in the proposed rule, such as “youth shelter or detention facilities” and “adjudicated delinquent”. Consider creating defined terms or cross-referencing statutory definitions.

kk. Given the title, it seems the department intends for subch. XIII of ch. DOC 346 to apply to a “youth detention portion of a secured residential care center for children and youth” based on the definition of that term in s. DOC 346.04 (35). However, that defined term is neither used in the title nor throughout the subchapter. Consider modifying the title to use the defined term and further modifying the subchapter’s sections to use the defined term, where appropriate.

ll. Related to comment 2.g and similar to comment 2.kk above, subch. XIV of ch. DOC 346 is titled “Collocated with an Adult Facility” but that term is neither defined nor referenced in that subchapter or more broadly in the proposed rule. While it seems that term may be intended to encompass a “youth portion of a county jail”, subch. XII of ch. DOC 346 already governs such facilities and contains nearly identical provisions. Depending on the department’s intent, the proposed rule should be modified to reconcile the concepts of “youth portion of a county jail” and “collocated with an adult facility”.

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

a. In s. DOC 346.02, the referenced statutes differ from those specified in the relevant portions of the rule summary. For consistency, consider whether to modify the rule’s text, the rule summary, or both.

b. Section DOC 346.21 (1) references s. 938.505 (1), Stats., which specifies certain duties of the department or the county department, as applicable, including to provide “ordinary medical and dental care for the juvenile, subject to the rights, duties, and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and the provisions of any court order”. While this statute applies regardless of the code’s provisions, the department could consider whether s. DOC 346.21 should acknowledge any applicable rights of a youth’s parent or guardian, as contemplated under s. 938.505 (1), Stats., and s. DOC 346.23 (1) under current law. This same comment applies to s. DOC 346.22, in terms of considering whether to acknowledge circumstances in which a parent or guardian may have authority over related decisions under state law.

c. For clarity, consider adding cross-references, where applicable, to other rules in s. DOC 346.23. For example, it may be helpful to clarify the relationship with the screening requirement in s. DOC 346.19. In other words, is the requirement under s. DOC 346.23 (1) (a) in addition to the screening requirement under s. DOC 346.19? As another example, is the requirement under s. DOC 346.23 (1) required at the time of admission as part of the health screening referenced under s. DOC 346.12 (6)?

d. After the phrase “corresponding wellness checks” in s. DOC 346.42 (4), consider adding a cross-reference to s. DOC 346.39 (1) (c) to provide clearer guidance as to the meaning of “corresponding” nature of those checks, assuming the department intends for that phrase to refer to the “continuous personal observation” required under s. DOC 346.39 (1) (c) when a youth is mechanically restrained for non-routine purposes.

e. In s. DOC 346.44 (2), consider adding an internal cross-reference to the dispositional exceptions provided later in the section, such as “...violations, subject to sub. (7)”.

f. Because s. DOC 346.44 (6) (a) and (b) describe the procedural requirements for restricting a youth’s privileges based on a rule violation, the department could consider deleting the subunits and instead cross-referencing the nearly identical requirements of s. DOC 346.45 (2) to (5). For example, sub. (6) could read: “Staff may restrict a youth’s privileges for a rule violation only after complying with the requirements under [insert appropriate cross-references].”.

g. Section DOC 346.51 cross-references other code chapters governing physical requirements. The department may consider adding similar cross-references to ch. DOC 347 in subch. XII of ch. DOC 346, and to ch. DOC 350 in subch. XIV of ch. DOC 346 (but see comment 2.kk) assuming the application of those standards are consistent with the department’s intent.

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

a. In the last paragraph of the rule summary’s plain language analysis, insert “for” prior to “the collocation with an adult facility” for grammatical consistency among the listed settings. Alternatively, insert “and” after “county jail”.

b. Because s. DOC 346.03 lists of a series of three defined terms, delete the first use of “and” and insert a comma after each term except the last.

c. In s. DOC 346.04 (4), consider using “classification system” as the defined term, for better clarity and grammar when used in the context of s. DOC 346.13.

d. In the definition of “secure perimeter” under s. DOC 346.04 (27), replace “center” with “facility” to use the defined term. Also, for grammatical consistency, insert “of” or “outer boundary of” after the first use of the word “or”. Finally, consider whether this definition uses other intended defined terms.

e. In s. DOC 346.04 (29), use the singular, rather than plural, form of the defined term itself and the individuals included in the definition. [s. 1.05 (1) (c), Manual.] Also, consider replacing “family member” with “relative” given that term’s use throughout ch. 938, Stats., as defined in s. 938.02 (15), Stats.

f. In s. DOC 346.09 (2) (s), the phrase “locking mechanism housings” is unclear. Does the department intend for this to apply to both locking mechanisms and their housings, or just the housings?

g. In s. DOC 346.06 (3) (intro.), replace “occur” with “occurs” for proper subject-verb agreement.

h. Throughout the proposed rule, is the use of the term “substantially remodeled” sufficiently clear so as to inform the reader which time-specific provisions of the rule will apply to a particular facility?

i. When describing the square footage requirements for holding rooms in ss. DOC 346.09 (5) (a) and 346.11 (10) (c) 3., consider using the phrasing used in s. DOC 346.10 (6) (b) 3. for better readability.

j. Fix the typographical error in s. DOC 346.09 (12) by replacing “melas” with “meals”.

k. Consider rephrasing s. DOC 346.09 (14) for clarity. Is the intent to require each facility to provide a dedicated visitation space that allows for contact among youth and visitors?

l. In s. DOC 346.09 (19) (c), replace “are to” with “shall”. [s. 1.08 (1) (b), Manual.] Also, is the directive that interior walls be constructed “tight to the structure” sufficiently instructive?

m. In s. DOC 346.12, what is the standard for proficiency that would trigger subs. (4) and (5)?

n. In s. DOC 346.12 (7), through the use of “both”, does the department intend for a youth to be provided a written and verbal orientation or a video orientation, or a written and verbal orientation or written and video orientation?

o. In s. DOC 346.15, modify the subunits to eliminate passive voice and, in sub. (5), insert a verb to match the structure of the other subunits. For example, sub. (5) could read: “A supervisor or designee shall be physically on site during every shift at the facility.”.

p. In s. DOC 346.16, replace “including” with “that includes”.

q. Modify s. DOC 346.17 (title) to be written with only an initial capital letter [s. 1.10 (2) (b) 2., Manual.]

r. In s. DOC 346.17, is “sharps” intended to be a noun? Consider clarifying the nature of the type of items that a facility must document and account for inventory.

s. In s. DOC 346.18, replace “are” with “shall be” or rework the sentence to avoid passive voice and state “The facility shall ...”. [ss. 1.05 (1) (d) and 1.08 (1) (b), Manual.]

t. In s. DOC 346.23, consider replacing “a suicide or self-harm risk” with “at risk for suicide or self-harm” to avoid creating a noun designation and for consistency with other phrasing throughout that section.

u. For clarity, consider specifying the types of communication contemplated under s. DOC 346.29.

v. Modify s. DOC 346.41 (2) (d) to read “...the role of, notification to, and follow-up by qualified...”.

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.

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

EXISTING ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

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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|------------------|--------------------------|
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This document can be made available in alternate formats to individuals with disabilities upon request.