

**STATEMENT OF SCOPE OF PROPOSED RULE
DEPARTMENT OF CORRECTIONS**

SUBJECT: Repealing and recreating chapter DOC 349, relating to municipal lockup facilities.

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

The objective of the rule is to:

- Eliminate outdated provisions;
- Clarify language;
- Update citations to statutes for accuracy;
- Clarify and update standards for the physical plant of a lockup facility;
- Clarify and update standards for lockup operations; and
- Renumber and reorganize the rule chapter.

DESCRIPTION OF EXISTING POLICIES AND NEW POLICIES INCLUDED IN THE PROPOSED RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

The department is responsible for establishing standards for the construction and operation of municipal lockup facilities. The department is also responsible for inspecting the facilities on an annual basis and as necessary. In 1990 the department last conducted a comprehensive review of the rule which establishes minimum standards in lockup operations. The department revised the rule in 1999 to address the housing of juveniles in municipal lockups. The issues addressed in the rule include: the review and approval of construction plans, physical plant requirements, occupancy limitations and requirements for single and double celling, juveniles, health care, including health screening upon admission, medication administration, suicide prevention, and crisis intervention, fire safety, security, administrative confinement, discipline, records and reporting, and variances.

Since the last time the rule was comprehensively reviewed, there have been changes in case law and correctional practices, relating to detention. There is a need to review the current rule to reflect the changes in the law and correctional practices. The alternatives to the proposed review would result in the department continuing to have outdated policies which do not adequately reflect the current state of the law and a rule which needs clarification and reorganization.

STATUTORY AUTHORITY: §§ 227.11(2), 301.03 (5), 301.36, 301.37 (1), 302.365, 938.209 (2m), Statutes

ESTIMATE OF THE AMOUNT OF TIME STATE EMPLOYEES WILL SPEND DEVELOPING THE PROPOSED RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

The Department estimates that it will take approximately 200 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

DESCRIPTION OF ALL OF THE ENTITIES THAT WILL BE AFFECTED BY THE RULE.

The rule affects persons who are arrested or charged with criminal offenses; municipal entities, including police departments, and DOC staff.


SUMMARY OF AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE.

There are no federal regulations that impact municipal, except with respect to the housing of juveniles. Specifically, the federal Juvenile Justice and Delinquency Act (JJDA), 42 USC 5601, et seq., and the implementing regulations (28 CFR Part 31) limit the housing of juveniles in municipal lockups.

CONTACT PERSON.

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Secretary
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