STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
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FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
DOC 350 Jails

3. Subject
Repeal and recreate chapter DOC 350, relating to Jails

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected
Not Applicable

6. Fiscal Effect of Implementing the Rule
☐ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☒ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☒ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
The Department of Corrections is responsible for establishing standards for and inspecting jails. The purpose of the chapter is to establish minimum standards for the design, construction, and operation of jails and houses of correction.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
The previous comprehensive review and revision of standards within this chapter occurred in 1990. Detention best-practices and standards have since changed, revision of this chapter is necessary to codify updated standards and best-practices. During 2010, the Department began reviewing detention standards in place within other states, including Illinois, Iowa, Michigan, Minnesota, as well as U.S. Immigration and Customs Enforcement. Standards recommended by the American Correctional Association, as well as the National Commission for Correctional Health Care, widely recognized accrediting organizations, were also reviewed.

The Department formed a multi-jurisdictional workgroup, comprised of officials from the Wisconsin Department of Corrections, Department of Justice, local Sheriffs and jail administrators, as well as members from mental health advocacy groups, who were tasked with review of existing mental health detention standards and providing recommendations. After review of relevant standards and recommendations, DOC submitted a draft of updated standards to Sheriffs and jail administrators of all 72 counties, the Badger State Sheriff's Association, and the Wisconsin Counties Association. The Department met with Sheriffs and jail administrators at regional locations throughout the state to receive feedback. Feedback from local officials was taken into consideration, and in some cases, draft standards were modified. Consideration was given to minimize the fiscal effect of revised standards, while targeting performance levels reflective of detention best-practices.

11. Identify the local governmental units that participated in the development of this EIA.
All 72 counties were provided a draft of updated standards for review and comment. Several counties provided written and oral feedback received during regional meetings across the state.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

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This rule may potentially increase construction costs for new jails, however, not to a significant extent. For example, the revised chapter would include new requirements to have mult-purpose room space for every 100 inmates, whereas formerly one multi-purspose room was required. In addition, a requirement for exercise space is created. While these provisions may increase some construction costs for new jails, the cost is not anticipated to be significant as previous construction projects have included these areas in construction designs.

Some revised standards may increase operational costs minimally while others may decrease costs. For example, there would be a new standard requiring annual inspection of food safety practices by an outside authority. This may increase costs by an estimated $200 annually per jail. Some jails may not incur this cost, as local county health departments may conduct the inspections. New standards for food service would be in place, requiring three meals a day, two of which would be hot (exceptions may occur provided basic nutritional goals are met). This requirement may be more feasible than current practice in some jails as food service providers have provided feedback indicating hot meals are typically considered more cost effective than cold meals.

The proposed rule change is anticipated to have no significant adverse or material economic impact on small businesses. The Department determined this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the state.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

DOC 350 is the administative rule county jails refer to when constructing and operating jails, and currently is ambiguous in some areas of the chapter, which has led to varying interpretations. The major benefit of the update, is to ensure Wisconsin detention standards are consistent with best correctional practices and applicable case law (which has changed considerably since 1990).

14. Long Range Implications of Implementing the Rule

Detention practices will more reliably and consistently resemble detention standards reflective of best correctional practices and applicable case law.

15. Compare With Approaches Being Used by Federal Government

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

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

In most cases, there are no significant differences between the requirements of adjacent states and those of Wisconsin as proposed. For a detailed analysis, please refer to the proposed rule making order submitted by the Department associated with this rule.

17. Contact Name	18. Contact Phone Number
Dustin Trickle	608-240-5413

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

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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

☐ 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:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

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

☐ Yes ☐ No