

**ORDER OF THE
DEPARTMENT OF CORRECTIONS
TO ADOPT PERMANENT RULES**

INTRODUCTORY CLAUSE

The statement of scope for this rule was approved by the Governor on 05/30/2019, published as Scope Statement No. SS 049-19 in Register No. 762A1 on 06/03/2019, and approved by Secretary Kevin A. Carr on 03/18/2019.

The Wisconsin Department of Corrections proposes an order to amend DOC 373.04 (7), DOC 393.04 (1), DOC 396.09 (1) (a).

RULE SUMMARY

1. Statutes interpreted: Not applicable.

2. Statutory authority to promulgate the rule: ss. 227.11 (2) (a) – (c), 301.02, 301.025.

3. Explanation of agency authority: The Department has responsibilities imposed by statute for maintaining and governing the state correctional institutions. The division of juvenile corrections shall exercise the powers and perform the duties of the department that relate to juvenile correctional services and institutions, juvenile offender review, community supervision under s. 938.533, and the serious juvenile offender program under s. 938.538. This rule change is made in response to Executive Order # 15, signed by Governor Evers on March 12, 2019.

4. Related statute or rule: s. 302.01, Stats. and s. 301.025, Stats.

5. Plain language analysis: This rule:

- a. Amends par. DOC 373.04 (7), to remove derogatory language.
- b. Amends par. DOC 393.04 (1), to remove derogatory language.
- c. Amends par. DOC 396.09 (1) (a), to remove derogatory language.

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: There are no federal regulations which address the issue.

7. Comparison with similar rules in adjacent states:

a. Illinois:

Upon a review of Illinois rules, it does not appear that Illinois uses derogatory terms in its

juvenile corrections chapters.

b. Iowa:

Upon review of Iowa rules specific to juvenile corrections, it does not appear as though Iowa uses derogatory terms in its juvenile corrections chapters. Although a more expansive review of other rule chapters suggests that Iowa uses the terms, “disability,” and “mental health” in its human services chapters. *See* Iowa Administrative Code 441-103.1(218).

c. Michigan:

Upon review of Michigan rules, it does not appear that Michigan uses derogatory terms in its juvenile corrections chapters. Although a more expansive review of other rule chapters suggests that Michigan uses the terms, “handicapped,” in its Department of Consumer and Industry Services rule chapter. *See* Michigan R 400.1411, Michigan R 400.4417, Michigan R 400.10411.

d. Minnesota:

Upon review of Minnesota rules, Minnesota Rules 2960 Department of Corrections and Department of Human Services Licensure and Certification of Programs for Children references disabilities throughout.

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: Jared Hoy, Assistant Deputy Secretary, 3099 East Washington Avenue, P.O. Box 7925, Madison, WI, 53707-7925; by phone: (608) 240-5055; 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 a date to be determined and published when the DOC submits its notice of hearing on this proposed rule. Written comments should be addressed to: Administrative Rules Committee, c/o Casey Gerber, DOC, P.O. Box 7925, Madison, WI 53707-7925, or by email: DOCAdministrativeRulesCommittee@wisconsin.gov.

TEXT OF RULE

SECTION 1. DOC 373.04 (7) is amended to read:

DOC 373.04 (7) Respect the race, gender, age, ~~handicaps~~disabilities, religious background, and culture of other persons.

SECTION 2. DOC 393.04 (1) is amended to read:

DOC 393.04 (1) The youth is free from discrimination based on race, national origin, color, creed, sex, age, sexual orientation, marital status, political affiliation, ~~handicap~~disability, ethnicity, religion, or ancestry.

SECTION 3. DOC 396.09 (1) (a) is amended to read:

DOC 396.09 (1) (a) Is free from discrimination based on race, national origin, color, creed, sex, age, sexual orientation, marital status, political affiliation, ~~handicap~~disability, ethnicity, religion, or ancestry.

SECTION 4. Effective Date: The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.