

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:040. Personnel.

RELATES TO: KRS 441.045, 441.055, 441.115

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes personnel procedures to be followed in full-service jails.

Section 1. Staffing.

- (1) A category I, II, III, IV, and V jail shall provide twenty-four (24) hour awake supervision for all prisoners by providing a minimum of three (3) jail personnel, excluding jail personnel designated for communication.
- (2) A staffing analysis may be requested by the jailer or governing authority.
- (3) If a female prisoner is booked, detained, or otherwise lodged in the jail, the jail shall provide a female deputy to perform twenty-four (24) hour awake supervision.

Section 2. Qualifications.

- (1) Persons who are at least eighteen (18) years old may be appointed or employed to work inside the secure perimeter of the jail.
- (2) A person under the age of twenty-one (21) years:
 - (a) Shall not:
 1. Be employed as a deputy jailer;
 2. Possess or exercise peace officer powers;
 3. Function in a role similar to that of a deputy jailer or correctional officer; or
 4. Be in a position that involves supervision over prisoners or persons yet to be booked into the jail; and
 - (b) Shall have a high school diploma or a high school equivalency diploma [All persons who work inside the secure perimeter of the jail shall be at least twenty-one (21) years of age].

Section 3. Compensation. Each employee shall receive a wage at least equal to the State Minimum Wage Law except if Federal Minimum Wage Law applies.

Section 4. Policy and Procedure. Written policy shall specify that equal employment opportunities exist for every position.

Section 5. Physical Fitness. The jailer or jail administrator shall ensure a level of physical fitness is maintained that will allow each employee to satisfactorily perform his or her duties.

Section 6. Code of Ethics.

- (1) The jailer or jail administrator shall make a written code of ethics available to each employee.
- (2) The written code of ethics shall be incorporated in the jail's policy and procedures manual and shall include the following:
 - (a) An employee shall not:
 1. Exchange a personal gift or favor with a prisoner, prisoner's family, or prisoner's friend;
 2. Accept any form of bribe or unlawful inducement;

3. Perform duties under the influence of an intoxicant or consume an intoxicant while on duty;
4. Violate or disobey an established rule, administrative regulation, or lawful order from a superior;
5. Discriminate against a prisoner on the basis of race, religion, creed, gender, national origin, or other individual characteristic;
6. Employ corporal punishment or unnecessary physical force;
7. Subject a prisoner to physical or mental abuse;
8. Intentionally demean or humiliate a prisoner;
9. Bring a weapon or an item declared as contraband into the jail without proper authorization;
10. Engage in critical discussion of jail employees or a prisoner in the presence of another prisoner;
11. Divulge confidential information without proper authorization;
12. Withhold information which threatens the security of the jail, jail employees, visitors, or the community;
13. Through negligence or intentionally, endanger the well-being of self or another;
14. Engage in a business or profitable enterprise with a prisoner;
15. Inquire about, disclose, or discuss details of a prisoner's crime other than as may be absolutely necessary in performing official duties;
16. Enter into an intimate, personal relationship with a prisoner while the prisoner is incarcerated at the same jail that the employee is employed by; or
17. Enter into an intimate, personal relationship with a former prisoner of the jail within six (6) months of that prisoner's release; and

(b) An employee shall:

1. Comply with established rules, administrative regulations, and lawful orders from a superior;
2. Treat each prisoner in a fair, impartial manner; and
3. Report a violation of the code of ethics to the jailer.

(3) A violation of the code of ethics shall be made a part of the employee's personnel file. (9 Ky.R. 637; eff. 3-2-1983; Am. 13 Ky.R. 677; eff. 11-11-1986; 19 Ky.R. 1846; 2619; eff. 6-7-1993; 26 Ky.R. 159; 27 Ky.R. 81; eff. 7-17-2000; 31 Ky.R. 1547; 1790; eff. 5-26-2005; 34 Ky.R. 1173; 1958; eff. 3-7-2008; 37 Ky.R. 2492; 38 Ky.R. 571; 479; eff. 11-4-2011; 42 Ky.R. 1937; eff. 3-4-2016; Cert. eff. 3-2-2023; 50 Ky.R. 1950; eff. 9-3-2024.)

The Jail Standards Review Commission established pursuant to KRS 441.055(1)(b) has approved the standards in this administrative regulation at its meeting on August 15, 2023, prior to its filing with the Legislative Research Commission in compliance with KRS 13A.120(3), 13A.220(6)(a), and 441.055(2).

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: February 6, 2024

FILED WITH LRC: February 15, 2024 at 8:50 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation will be held on April 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Any person who wishes to be heard at this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If a notice of intent to attend the hearing is not received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2024. Send written notice

of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, Justice.RegContact@ky.gov, telephone number (502) 564-3279, facsimile number (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes personnel procedures to be followed in full-service jails.

(b) The necessity of this administrative regulation:

This administrative regulation complies with the requirement to adopt jail standards in KRS 441.055(1)(a), (b).

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation complies with the requirement to adopt jail standards in KRS 441.055(1)(a), (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

It establishes minimum standards to be followed for personnel procedures in full-service jails.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment revises section 2 to comply with changes to KRS 441.055(1)(a)2.b.

(b) The necessity of the amendment to this administrative regulation:

The amendment revises the standards as part of the review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment revises the standards as part of the review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes:

It complies with statutory changes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This affects approximately 74 county and regional jails and their staff, approximately 50 Department of Corrections employees, including 12 Local Facilities staff, and approximately 19,683 prisoners in the jails, including 5,682 Class C and D felons.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Jails will have to comply with the statutory and regulatory qualifications required for jail staff.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

An estimated cost for this change is unknown and the change is required by statute.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The regulation is clearer and adds statutory requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Additional cost is not anticipated.

(b) On a continuing basis:

Additional cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

State budgeted funds for the Department of Corrections and county budgeted funds for jail operating expenses.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in fees or funding is not anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

Fees are not established or increased.

(9) TIERING: Is tiering applied?

No. The standards apply equally to all full-service jails.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Department of Corrections and full-service county jails that house state inmates.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 196.035, 197.020, 441.055

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

Revenue is not generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

Revenue is not generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year?

For fiscal year 2023, the department paid the local jails approximately \$139,275,752.09 for the housing, transportation, and medical care and programming incentives for state inmates. Full-service jails receive the largest portion of this funding. In addition, the department incurred approximately \$1,669,365.54 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years?

Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

Cost savings are not anticipated.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

Cost savings are not anticipated.

(c) How much will it cost the regulated entities for the first year?

The regulation impacts how the jails operate, but does not increase costs from what is budgeted for the biennium.

(d) How much will it cost the regulated entities for subsequent years?

The regulation impacts how the jails operate, but does not increase costs from what is budgeted for the biennium.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] A major economic impact is not anticipated.