

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 13:010. Life safety issues.

RELATES TO: KRS 67.900, 198B.650-198B.689, 217.280-217.390, 441.005, 441.045, 441.055, 441.560, 532.100

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055, 441.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 requires the secretary to promulgate administrative regulations necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(e) requires the Department of Corrections to promulgate administrative regulations to require telehealth services in county jails. KRS 441.560 requires the department to promulgate administrative regulations relating to the transfer of prisoners to the department for medical treatment and care. KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum health and life safety standards for jails that do not house state prisoners. This administrative regulation sets forth procedures to provide protection for basic health and life safety in jails that do not house state prisoners.

Section 1. Definitions.

- (1) "Department" is defined by KRS 441.005(5).
- (2) "Governing authority" means a county fiscal court, urban-county government, charter county government, consolidated local government, unified local government, or regional jail authority.
- (3) "Jail" or "Life Safety Jail" means any county jail and correctional or detention facility, including correctional facilities defined by KRS 67B.020, operated by and under the supervision of a governing authority that does not house state prisoners pursuant to KRS 532.100.
- (4) "Jail personnel" is defined by KRS 441.005(6).
- (5) "Medical authority" means the person or persons licensed to provide medical care to prisoners in the jail's custody.
- (6) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, transfer of health or medical data, and continuing education.

Section 2. Policy and Procedure. The jailer shall develop and maintain a policy and procedures manual that has been adopted by the governing authority and filed with the department. The policy and procedures manual shall include, at a minimum, the following aspects of the jail's operation:

- (1) Administration;
- (2) Staffing;
- (3) Security and control;
- (4) Physical plant;
- (5) Fire safety;
- (6) Sanitation and hygiene;
- (7) Medical services; and
- (8) Food services.

Section 3. Administration.

- (1) Jail information and prisoner records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Prisoner records shall be

maintained as required by the Department of Libraries and Archives pursuant to 725 KAR Chapter 1.

(2) A telephonic report to the department shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence, and a final written report shall be made within forty-eight (48) hours. This report shall be placed in the jail record. Extraordinary or unusual occurrences shall include:

- (a) Death of a prisoner;
- (b) Suicide or attempted suicide that constitutes a serious health concern;
- (c) Serious injury, whether accidental or self-inflicted;
- (d) Escape or attempted escape from confinement;
- (e) Fire;
- (f) Riot;
- (g) Assault, whether by jail personnel or prisoner;
- (h) Sexually abusive conduct;
- (i) Occurrence of contagious or infectious disease, or illness within the facility; and
- (j) Any serious event that threatens the safety or security of the facility or jail personnel.

(3) The jail shall, if there is an escape, immediately:

- (a) Notify the Division of Local Facilities jail inspector;
- (b) Notify Kentucky State Police or local law enforcement;
- (c) Activate VINE through use of the Emergency Override Line (EOL); and
- (d) Enter the prisoner's escape status into the jail management system.

Section 4. Staffing.

(1) Each jail shall provide twenty-four (24) hour awake supervision for all prisoners by providing a minimum of two (2) jail personnel, excluding jail personnel designated for communication. If requested by the jailer or governing authority, the department may conduct a staffing analysis.

(2) Each jail shall be required to provide the department with a weekly population update.

(3) If a female prisoner is lodged in the jail, the jail shall provide a female deputy to perform twenty-four (24) hour awake supervision.

(4) Qualifications.

(a) Persons who are at least eighteen (18) years old may be appointed or employed to work inside the secure perimeter of the jail.

(b) A person under the age of twenty-one (21) years:

1. Shall not:

a. Be employed as a deputy jailer;

b. Possess or exercise peace officer powers;

c. Function in a role similar to that of a deputy jailer or correctional officer; or

d. Be in a position that involves supervision over prisoners or persons yet to be booked into the jail; and

2. Shall have a high school diploma or a high school equivalency diploma [~~Jail personnel shall be at least twenty-one (21) years of age~~].

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

(6) Males and females shall be housed separately.

Section 5. Security and Control.

(1) Jail personnel shall conduct and document direct, in-person surveillance of each prisoner on an irregular basis, at least every sixty (60) minutes.

(2) Jail personnel shall conduct and document direct, in-person surveillance every twenty (20) minutes, at irregular intervals, on the following classes of prisoners:

- (a) Suicidal; and

- (b) Mentally or emotionally disturbed.
- (3) There shall be at least three (3) documented prisoner counts every twenty-four (24) hours during which each prisoner's physical presence, by show of skin or by movement, shall be observed. At least one (1) count shall be conducted per shift.
- (4) A prisoner shall not be assigned to a position of authority over another prisoner.
- (5) A prisoner shall not be permitted to perform or assist in a security duty.
- (6) A trustee, if used, shall not have access to or control of a weapon.
- (7) Daily Jail Log; Special reports. A daily log shall be kept current and shall reflect significant occurrences within the jail. Special reports shall include:
 - (a) Disciplinary action;
 - (b) Medical or mental health treatment;
 - (c) Feeding schedule and menus;
 - (d) Extraordinary occurrences:
 - 1. Fire;
 - 2. Assault;
 - 3. Suicide or attempted suicide; or
 - 4. Escape or attempted escape;
 - (e) Inmate vandalism:
 - 1. Destruction of jail property; or
 - 2. Flooding of plumbing fixtures;
 - (f) Jail personnel roster for each shift; and
 - (g) Visitor's log.

Section 6. Physical Plant.

- (1) Square footage living space requirement for jails shall be the same as required in 501 KAR 3:050.
- (2) All furnishings in the jail shall be noncombustible and nontoxic as approved by the department.
- (3) Kitchen. The purpose of this area shall be to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:
 - (a) Compliance with standards of the Kentucky Food Code, 902 KAR 45:005;
 - (b) Commercial type stoves and refrigeration units; and
 - (c) Walls, floors, and decks that are approved fire-rated masonry, concrete, or steel construction.
- (4) Gauges, indicators, and alarms shall be located in an area monitored by jail personnel.
- (5) The jail shall provide ventilation to meet the air exchange requirements in the Kentucky Department of Corrections Jail Construction, Expansion, and Renovation Guidelines incorporated by reference in 501 KAR 3:050.
- (6) Electrical outlets if provided shall be ground-faulted or have ground-fault circuit breakers.
- (7) All tools, toxic, corrosive, and flammable substances, and other potentially dangerous supplies and equipment shall be stored in a locked area not accessible to prisoners.
- (8) The jail shall have a procedure for immediate reporting and repairing any broken or malfunctioning key or lock.
- (9) A set of duplicate keys shall be maintained in a separate, secure place.
- (10) Each jail shall comply with the Kentucky Building Code, 815 KAR 7:120.

Section 7. Fire Safety.

- (1) Each jail shall have a written policy and procedure that specifies fire prevention practices to ensure the safety of prisoners, visitors, and jail personnel. These shall include, at a minimum:
 - (a) Fire emergency planning sessions for jail personnel at least quarterly;

- (b) Maintaining written documentation of fire planning sessions and a written copy of the material taught;
 - (c) A fire safety inspection by the department at least once a year;
 - (d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by jail personnel monthly;
 - (e) Being a tobacco-free facility; and
 - (f) A written evacuation plan coordinated with local fire officials.
- (2) Each jail shall have exits distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.
- (3) Each jail shall have equipment necessary to maintain essential lights, power, HVAC, and communications in an emergency situation.
- (4) In each area where a prisoner may be confined, there shall be an emergency smoke control system activated by smoke detectors and operated by emergency power. Inspection and testing of the smoke control system shall be conducted by a qualified person at least annually.
- (5) Each jail shall have an approved fire alarm and smoke detection system.

Section 8. Sanitation; Hygiene.

- (1) The jailer shall provide for the control of vermin and pests.
- (2) The jail shall provide for both solid and liquid waste disposal.
- (3) The jail shall have fresh air circulating within prisoner living and activity areas.
- (4) All prisoners shall be provided with hot and cold running water in showers and lavatories.
- (5) All prisoners shall be provided with toilet paper or feminine hygiene items when needed.

Section 9. Medical Services.

- (1) Jail personnel shall have current training in standard first aid equivalent to that provided by the American Red Cross, the American Heart Association, or an equivalent nationally recognized organization. New jail personnel shall receive training within their first year of employment.
- (2) At least one (1) jail personnel on site shall be certified to perform CPR (cardiopulmonary resuscitation), equivalent to that provided by the American Red Cross, the American Heart Association, or an equivalent nationally recognized organization. New jail personnel shall receive certification within their first year of employment.
- (3) The jail shall have first aid kits available at all times.
- (4) Medical screening shall be performed by the receiving jail personnel on all prisoners upon their admission to the jail and before their placement in prisoner living areas. The findings of this medical screening shall be recorded on a printed screening form approved by the medical authority. The medical screening inquiry shall include:
 - (a) Current illnesses and health problems;
 - (b) Medications taken and special health requirements;
 - (c) Screening of other health problems designated by the medical authority;
 - (d) Behavioral observation, state of consciousness, and mental status;
 - (e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;
 - (f) Condition of skin and body orifices, including rashes and infestations; and
 - (g) Disposition and referral of prisoners to qualified medical personnel on an emergency basis.
- (5) Each prisoner shall be afforded access to necessary medical care as in KRS 441.045.
- (6) The medical authority shall be a licensed practical nurse (LPN), a higher level of licensed nurse, a licensed medical doctor, or licensed doctor of osteopathy. Telehealth services may be used.

(7) Telehealth services shall be provided for prisoners.

Section 10. Medical Transfers pursuant to KRS 441.560.

(1) A jailer may request that a prisoner be transferred to the department for necessary medical treatment and care if the prisoner:

- (a) Is injured;
- (b) Is pregnant;
- (c) Becomes sick or ill;
- (d)
 - 1. Is severely and persistently mentally ill; and
 - 2. Is presenting an imminent risk of harm to self or others; or
- (e) Requires specialized medical care or long-term medical care which is not available at the local jail.

(2) The transfer request shall be submitted to the Classification Branch in writing and shall contain the following information:

- (a) Prisoner's name;
- (b) Prisoner's Social Security number;
- (c) County where currently housed;
- (d) Inmate number;
- (e) Pending charge or conviction and whether felony or misdemeanor;
- (f) Estimated sentence or time to serve;
- (g) Whether the prisoner has insurance or not;
- (h) Whether the prisoner is indigent or not;
- (i) Justification for medical transfer;
- (j) Whether the care is necessary or not;
- (k) Any conflict reports; and
- (l) Relevant attachments such as:
 - 1. Copy of prisoner's insurance card;
 - 2. Doctor's report;
 - 3. Incident report;
 - 4. Citation;
 - 5. Booking information;
 - 6. Preexisting medical records; or
 - 7. Current medication.

(3) If a prisoner is approved for transfer to the department as a medical prisoner, the jail shall provide the following, unless already provided with the transfer request:

- (a) All medical information;
- (b) Current medication in proper container;
- (c) Booking information;
- (d) Incident reports;
- (e) Current citation;
- (f) Classification information;
- (g) Conflict reports;
- (h) Any additional pertinent information; and
- (i) Custody receipt.

(4) If a prisoner is approved for transfer to the department as a medical prisoner, the prisoner shall be transported by the department.

Section 11. Food Services.

(1) The jail shall comply with KRS 217.280 to 217.390, 803 KAR 2:317, and 902 KAR 45:005.

(2) The jail shall provide prisoners with a nutritionally adequate diet containing at least 2,400 calories daily and jail menus shall be approved annually by a nutritionist or

dietician. Condiments shall not be included in the daily caloric totals.

(3) Except as provided by subsection (4) of this section, prisoners shall receive three (3) meals per day, one (1) of which shall be hot. More than fourteen (14) hours shall not elapse between any two (2) meals.

(4) The jailer may elect to provide only two (2) meals on Saturdays, Sundays, and holidays, if both meals still meet the minimum 2,400 calories per day. Condiments shall not be included in the daily caloric totals. If the jailer elects to serve only two (2) meals, more than sixteen (16) hours shall not elapse between any two (2) meals.

(5) The jailer shall provide for medical diets if prescribed by a medical authority. This shall include any special dietary requirements to ensure adequate nutrition is provided for pregnant prisoners.

(6) The jailer shall maintain accurate records of all meals served.

(7) Food shall not be used for disciplinary purposes.

(8) Jail personnel shall directly supervise all food prepared within the jail.

(9) All food shall be served under the direct supervision of jail personnel.

(10) The jail shall have sufficient cold and dry food storage facilities.

(11) The jailer or his designee shall inspect the food service area daily.

(12) Canteen food items purchased by prisoners may be stored and prepared in amounts that do not pose a threat to the health or security of the ~~facility~~institution.

The Jail Standards Review Commission established pursuant to KRS 441.055(2) 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 shall be held on April 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. 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 notification 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 and 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 procedures for the protection of basic health and life safety issues in jails that do not house state prisoners (life safety jails).

(b) The necessity of this administrative regulation:

This administrative regulation complies with the requirement to adopt jail standards in KRS 441.055(2).

(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(2).

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

It establishes procedures for the protection of basic health and life safety issues in jails that do not house state prisoners (life safety 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 requires telehealth services to be provided to comply with KRS 197.020(1)(e)2, requires provisions for special dietary requirements to ensure adequate nutrition is provided for pregnant prisoners to comply with changes to KRS 441.055(3), revises the personnel qualifications subsection to comply with changes to KRS 441.055(2), and changes institution to facility.

(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(2) and to comply with statute changes.

(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(2) and changes to KRS 197.020(1)(e)2 and 441.055 (2) & (3).

(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 3 county jails and their staff, approximately 7 Local Facilities staff, and approximately 80 prisoners in the jails.

(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 qualification required for jail staff and provide statutory prisoner requirements.

(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:

Any additional cost is the result of the statutory changes.

(b) On a continuing basis:

Any additional cost is the result of the statutory changes.

(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 with payments from the DOC.

(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 life safety 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 life safety jails that house county prisoners

(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 was appropriated \$860,000 to provide a monthly payment of an annual amount of \$20,000 to each county with a life safety or closed jail. The payment was in addition to the payment required by KRS 441.206(2). For fiscal year 2023, the Department of Corrections paid the three life safety jails \$202,257.29. 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 required by statute.

(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 with any increase in costs arising from the statutory changes.

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

The regulation impacts how the jails operate with any increase in costs arising from the statutory changes.

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.