§1208-B. Standards, policies and procedures applicable to jails

1. Establishment. The commissioner shall establish mandatory standards, policies and procedures for jails. The standards, policies and procedures must be established by rule and must be evidence-based, must take into consideration cost impact and must reflect best practices for the administration and operation of jails. The rules must include policies and procedures for assisting jails to achieve compliance and for imposing penalties for noncompliance.

A. The standards, policies and procedures must address record keeping and reporting of financial data, capital improvement planning, jail staffing, administration and management of prisoners, transfer of inmates, notification to prisoners of prohibition on contact with victims and other persons, pretrial assessments and services, evidence-based programming, literacy programs, mental health and substance use disorder programs and correctional officer training. [PL 2017, c. 407, Pt. A, §152 (AMD).]

B. In administering and distributing funding to the jails pursuant to section 1210-E, subsection 5, the commissioner shall:

(1) Require reporting of data that indicates average daily population of prisoners, that excludes federal prisoners, that indicates sending and receiving jails for transferred prisoners and that is useful in calculating the distributions to the counties pursuant to section 1210-E, subsection 9; and

(2) Consider the performance of each jail in meeting the standards established pursuant to this section. The commissioner shall work with the jails to assist them in achieving compliance with the standards. The commissioner shall enforce the standards by imposition of monetary penalties upon a county for noncompliance by the county jail or regional jail. A monetary penalty imposed under this subparagraph may not in any fiscal year exceed the County Jail Operations Fund distribution payable to a county for a fiscal year pursuant to section 1210-E, subsection 5. [PL 2021, c. 732, Pt. D, §3 (AMD); PL 2021, c. 732, Pt. D, §7 (AFF).]

[PL 2021, c. 732, Pt. D, §3 (AMD); PL 2021, c. 732, Pt. D, §7 (AFF).]

2. Rulemaking. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 171, §2 (AMD); PL 2021, c. 263, §1 (AMD).]

3. Gender affirmation. The standards, policies and procedures established pursuant to this section for the county jails and regional jail must require the jails to respect and acknowledge an incarcerated person's consistently held gender identity irrespective of anatomy or physique. Housing placements and search practices must be consistent with the person's consistently held gender identity except when such placement or search would present significant management or security problems to the jail or threaten the health and safety of the person. A person must have access to commissary items, clothing, personal property, programming and educational materials that are consistent with the person's consistently held gender identity. County and regional jail staff shall address a person in a manner that is consistent with the person's consistently held gender identity.

[PL 2021, c. 263, §2 (NEW).]

4. Requirements; rulemaking by commissioner. The jails shall operate in accordance with best practices applicable to facilities of their type and size, including the mandatory standards, policies and procedures established by rules adopted by the commissioner under subsection 1 and standards adopted under section 1208, and with the following requirements as set forth in rules adopted by the commissioner. In adopting rules and standards for the jails, the commissioner shall consider the advisory input of the County Corrections Professional Standards Council established pursuant to Title 5, section 12004-G, subsection 6-D.

A. Each jail shall participate in coordination of inmate transportation. Coordination of transportation may be provided by the jail at which the inmate resides, by another jail or correctional facility or by a person or entity working under a contract with the jail at which the inmate resides. [PL 2021, c. 732, Pt. C, §1 (NEW).]

B. Each jail shall provide access to substance use disorder screening, assessment, medication, treatment, recovery and reentry services, including at a minimum:

(1) Screening on intake using evidence-based tools to assess the risk of overdose or withdrawal and the person's history of substance use disorder and to determine initial treatment options;

(2) Medically managed withdrawal treatment consistent with evidence-based medical standards;

(3) All forms of medication for addiction treatment, including at least one of each formulation of each United States Food and Drug Administration-approved medication-assisted treatments for substance use disorder, including alcohol use disorder and opioid use disorder, to ensure that each person receives the particular formulation found to be the most effective at treating and meeting the person's individual needs. Medication under this subparagraph must be offered for the duration of the person's incarceration;

(4) Behavioral treatment options, such as group and individual counseling, and clinical support;

(5) Peer support services;

(6) Reentry planning and transitional support such as coordination with community-based treatment and case management service providers and recovery organizations to ensure reentry and continuity of care after release, including appointments for services made prior to release; and

(7) Assistance in obtaining health insurance prior to release.

Substance use disorder services required by this paragraph may be provided at the jail at which the person resides or at another jail or correctional facility or by a service provider or entity working under a contract with the jail at which the person resides. [PL 2021, c. 732, Pt. C, §1 (NEW).]

C. Each jail shall provide mental health treatment, including at a minimum providing a licensed clinician or licensed professional organization that will be available to assist an inmate who is a person receiving mental health treatment. Mental health treatment required by this paragraph may be provided at the jail at which the person resides or at another jail or correctional facility or by a service provider or entity working under a contract with the jail at which the person resides. [PL 2021, c. 732, Pt. C, §1 (NEW).]

D. Each jail shall provide community programs and services as required by this subchapter, including at a minimum pretrial or conditional release, alternative sentencing or housing programs and electronic monitoring. [PL 2021, c. 732, Pt. C, §1 (NEW).]

E. Each jail shall provide initial and ongoing training and technical assistance for facility staff and health care practitioners on screening, assessment, medication and treatment protocols for substance use disorder. [PL 2021, c. 732, Pt. C, §1 (NEW).]

[PL 2023, c. 135, §3 (AMD).]

5. Requirements; rulemaking by the council. The jails shall operate in accordance with rules adopted pursuant to this subsection. The County Corrections Professional Standards Council, established pursuant to Title 5, section 12004-G, subsection 6-D, shall adopt rules governing the collection and reporting of data by jails as necessary to implement this section. The rules may consider the cost impacts of policy decisions by jails and the State, best practices for the operation of jails, the cost-effective delivery of services by jails, program participation, categories of inmates and reasons for

detention or incarceration. In adopting data collection rules, the council shall at minimum require jails to report the following data:

A. The revenues and expenses associated with operating the jail; [PL 2021, c. 732, Pt. C, §2 (NEW).]

B. The population of persons detained or committed to the custody of the sheriff. The rules must require population reporting on a daily basis and must provide data to the department on actual daily population of persons who are detained or incarcerated and persons on all forms of community release. Population data must be reported in the format required by the rule; and [PL 2021, c. 732, Pt. C, §2 (NEW).]

C. The funds used for programs and services as required by section 1208-B, subsection 4, paragraph B. [PL 2021, c. 732, Pt. C, §2 (NEW).]

The council shall establish the rules, definitions and reporting requirements for a centralized data system for county jails.
[PL 2021, c. 732, Pt. C, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 335, §22 (NEW). PL 2017, c. 407, Pt. A, §152 (AMD). RR 2019, c. 2, Pt. A, §32 (COR). PL 2021, c. 171, §2 (AMD). PL 2021, c. 263, §§1, 2 (AMD). PL 2021, c. 732, Pt. C, §§1, 2 (AMD). PL 2021, c. 732, Pt. D, §3 (AMD). PL 2021, c. 732, Pt. D, §7 (AFF). PL 2023, c. 135, §3 (AMD).

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