

**OFFICE OF POLICY AND LEGAL ANALYSIS  
BILL ANALYSIS**

---

**TO:** Members, Joint Standing Committee on Criminal Justice and Public Safety

**FROM:** Jane Orbeton, Legislative Analyst

**DATE:** April 1, 2021

**LD:** 521 An Act To Modify the Rule-making Process for Establishing County and Municipal Jail Standards

---

**Summary**

This bill amends the laws governing the authority of the Commissioner of Corrections to establish standards for municipal and county jails and detention facilities.

The bill requires that all jail standards beginning November 1, 2021, be adopted through the major substantive rule-making process set forth in the Maine Administrative Procedure Act.

The bill requires that the jail standards must be evidenced-based, must minimize the imposition of additional costs and must reflect best practices for the operation and administration of jails.

**Testimony**

**Proponents:**

1. Senator Baldacci sponsored the bill and spoke in favor, citing that he submitted the bill for the Maine County Commissioners Association (MCCA).
2. Stephen Gorden, chair of the Board of Commissioners for Cumberland County, submitted testimony for the MCCA and testified in favor of the bill. Commissioner Gorden spoke of issues with rulemaking in 2020 on health services in the jails and of potential costs. Commissioner Gorden stressed that the bill requires new rules to be major substantive rules, to be evidence-based, to reflect best practices and to minimize additional costs.
3. Sheriff Jeff Trafton from Waldo County represented the Maine Sheriffs' Association and supported the bill. Sheriff Trafton mentioned the requirement in 34-A MRSA section 1208 that the Commissioner of DOC maintain a county and municipal detention facility advisory committee, a committee on which the sheriffs are identified members and have served. Sheriff Trafton mentioned that the most recently adopted rules on health care services and women's services have the potential to increase costs and are believed by the sheriffs not to be evidence-based best practices.

**Opponents:**

1. Commissioner Liberty of the Department of Corrections submitted written testimony and testified against the bill. Commissioner Liberty objected to all jail rulemaking becoming major substantive due to the added length of that rulemaking and on the basis that involvement of the

advisory committee involvement has been positive. DOC objects to the requirement that new rules minimize additional costs.

2. Jan Collins, who serves on the Board of Visitors for the Franklin County Jail, speaking representing the Maine Prisoner Advocacy Coalition, testified against the bill, arguing that the cost of running and maintaining a jail should be addressed directly if cost is the issue and supporting diversion programs that would provide substance use disorder treatment and mental health treatment in community programs.

3. Peter Lehman, representing the Maine Prisoner Advocacy Coalition, testified against the bill.

4. Zachary Heiden, representing the ACLU, testified against the bill and provided written testimony. Mr. Heiden favored the current rulemaking process as appropriate for the protection of health and safety since 34-A MRSA section 1208, sub-§1 requires jail standards that ensure that facilities are “safe, healthful and secured.”

**Neither for nor against:**

None

**INFORMATION REQUESTED:**

None