

**Proposed Committee Amendment to LD 521**  
**An Act To Modify the Rule-making Process for Establishing County and Municipal Jail Standards**  
**Proposed by Sponsor Sen. Joseph Baldacci**

Amend the bill to read:

**Sec. 1. 34-A MRSA §1208, sub-§1**, as enacted by PL 1983, c. 581, §§10 and 59, is amended to read:

**1. Establishment.** The commissioner shall establish both mandatory and desirable standards for all county and municipal detention facilities, setting forth requirements for maintaining safe, healthful and secure facilities. Standards adopted pursuant to this subsection must be evidence-based, ~~minimize the imposition of additional costs consider cost impacts,~~ and reflect best practices for the operation and administration of jails. ~~Standards adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**Sec. 2. 34-A MRSA §1208-B**, as corrected by RR 2019, c. 2, Pt. A, §32, is amended to read:

**§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, ~~minimize the imposition of additional costs consider cost impacts,~~ and 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.

B. In administering and distributing funding to the jails pursuant to section 1210-D, subsection 4, 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-D, subsection 4; 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 subsection 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-D, subsection 4.

**2. Rulemaking.** Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to this section must take effect January 1, 2016, ~~except that beginning November 1, 2021, rules adopted pursuant to this section are major substantive rules.~~

**SUMMARY**

This amendment removes from the bill the requirement that jail standards minimize additional costs and substitutes that they must consider cost impacts. The amendment removes the requirement that new rules for jail standards be major substantive rules.