

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Health and Human Services

2. Bureau:

Children's Services Agency

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Juvenile Court-Operated Facilities

5. Rule numbers or rule set range of numbers:

R 400.10101 - 400.10639

6. Estimated time frame:

3 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

These rules describe the requirements for operating a juvenile facility by the courts. The current rules at R 400.10177 were promulgated under MCL 24.244(1) as changes needed by federal law, specifically the Juvenile Justice Reform Act of 2018, that prevented restraint of pregnant youth in juvenile facilities. The current language, however, indicates the rules were established for "child caring institutions", not juvenile facilities by definition of federal law, An amendment is needed to correct the current rules to identify the correct institution responsible for the restraint action, i.e. juvenile facilities.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Department Director

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

By authority conferred on the department of health and human services by sections 1 and 14 of the social welfare act, 1939 PA 280, MCL 400.1 and 400.14, and section 2 of 1973 PA 116, MCL 722.112.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

The prohibition of restraint on pregnant juveniles rule must be added to the state's current juvenile justice funding plan by December 21, 2020. See PL 115-385, 132 Stat 5123 (2018).

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

Notification will be made to court-operated facilities once the rule is promulgated. There have been current discussions with court-operated facilities staff and organizations regarding the rule change.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

The rules were not listed on the department's annual regulatory plan for the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

The current rule mistakenly identifies that public or private licensed child caring institutions are affected by the rule. It is actually all "secure juvenile detention and correction facilities" that are affected. See PL 115-385, 132 Stat 5133. Under MCL 24.244(1), the rule change is requested to fix an obvious error to make the rule comply with an amended/new statute.