



STATE OF INDIANA
Department of Correction

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Michael R. Pence
Governor

Bruce Lemmon
Commissioner

August 5, 2014

Mr. Chris Atkins
OMB Director
Indiana State House
200 W. Washington St. #212
Indianapolis, IN 46204

Re: Exception to Executive Order 13-02 "*Regulatory Moratorium*"

Dear Director Atkins:

The Indiana Department of Correction requests an exception to the regulatory moratorium identified in Executive Order #13-02 suspending rulemaking action. Our intent is to update the existing administrative code with language that utilizes industry requirements. If we cannot update the existing administrative rule, as this is the same subject matter, we request the Department is able to repeal existing administrative rules related to juvenile detention standards, and promulgate revised rules for juvenile detention established to improve the health and safety of juveniles detained in secure detention centers. The existing administrative rules are due to expire in December of this year. Our overall request is that you allow the Department to proceed with the Administrative Rulemaking process so that this rule will not sunset on December 2014.

The proposed administrative rules related to juvenile detention standards satisfy the exception to Executive Order #13-02 through two exceptions noted in paragraph 6 of the Executive Order; specifically, (b.) rules that update and/or repeal existing rules or reduce their regulatory impact; and (g.) rules whose predominate purpose and effect are to address matters of emergency or health or safety, including the promulgation of an emergency rule under Indiana Code 4-22-2-37.1.

Exception justification

(b.) rules that update and/or repeal existing rules or reduce their regulatory impact; and
(g.) rules whose predominate purpose and effects are to address matters of emergency or health or safety, including the promulgation of an emergency rule under Ind. Code 4-22-2.37.1

IDOC proposes to update and/or repeal the existing administrative rule related to the operation of juvenile detention facilities and adopt new rules based on nationally recognized best-practices in the secure confinement of youth.

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The current juvenile detention standards (210 IAC Article 6 - Juvenile Detention Facilities) were initially filed in January 1996 and were based upon the American Correctional Associations' (ACA), Standards for Juvenile Detention Facilities, Third Edition, created in 1991. The Indiana administrative rules related to Juvenile Detention Facilities have been re-adopted twice since they were originally filed, with minimal revisions. The current administrative rule was last re-adopted on December 2, 2008 and is due to expire in December, 2014.

Since the creation of the first juvenile detention standards in the 1990's, a considerable amount of research has been done in the areas of: the conditions of confinement and acceptable quality of life standards for youth held in secure confinement facilities. Information learned from these studies has been incorporated into best-practice documents such as: the ACA, Standards for Juvenile Detention Facilities, draft Fourth Edition; the Annie E. Casey Foundation's, Juvenile Detention Alternatives Initiative, Conditions of Confinement Standards; the Council on Accreditations' Standard; the Council of Juvenile Correctional Administrators, Performance-base Standards; and the U.S. Department of Justice, Prison Rape Elimination Act, Standards.

A great deal of work has been done by a multi-disciplinary advisory committee convened by the Commissioner to revise the standards with the current national best-practice standards listed above, to replace the expiring standards.

Update and/or repeal of the existing (and expiring) juvenile detention standards and implementation of the recommended standards, based on best practice documentation will serve to improve the conditions of confinement as well as improve long-term outcomes and ensure a healthy and safe environment for youth who require secure confinement in a juvenile detention facility.

Sincerely,

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Bruce Lemmon
Commissioner