

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 521

S.P. 204

In Senate, February 24, 2021

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

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Received by the Secretary of the Senate on February 22, 2021. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

1 **Be it enacted by the People of the State of Maine as follows:**

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

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

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

12 **§1208-B. Standards, policies and procedures applicable to jails**

13 **1. Establishment.** The commissioner shall establish mandatory standards, policies  
14 and procedures for jails. The standards, policies and procedures must be established by  
15 rule and must be evidence-based, minimize the imposition of additional costs and reflect  
16 best practices for the administration and operation of jails. The rules must include policies  
17 and procedures for assisting jails to achieve compliance and for imposing penalties for  
18 noncompliance.

19 A. The standards, policies and procedures must address record keeping and reporting  
20 of financial data, capital improvement planning, jail staffing, administration and  
21 management of prisoners, transfer of inmates, notification to prisoners of prohibition  
22 on contact with victims and other persons, pretrial assessments and services, evidence-  
23 based programming, literacy programs, mental health and substance use disorder  
24 programs and correctional officer training.

25 B. In administering and distributing funding to the jails pursuant to section 1210-D,  
26 subsection 4, the commissioner shall:

27 (1) Require reporting of data that indicates average daily population of prisoners,  
28 that excludes federal prisoners, that indicates sending and receiving jails for  
29 transferred prisoners and that is useful in calculating the distributions to the  
30 counties pursuant to section 1210-D, subsection 4; and

31 (2) Consider the performance of each jail in meeting the standards established  
32 pursuant to this section. The commissioner shall work with the jails to assist them  
33 in achieving compliance with the standards. The commissioner shall enforce the  
34 standards by imposition of monetary penalties upon a county for noncompliance  
35 by the county jail or regional jail. A monetary penalty imposed under this  
36 subsection may not in any fiscal year exceed the County Jail Operations Fund  
37 distribution payable to a county for a fiscal year pursuant to section 1210-D,  
38 subsection 4.

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

**SUMMARY**

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This bill amends the laws governing the authority of the Commissioner of Corrections to establish standards for municipal and county jails and detention facilities. First, the bill requires that such standards be adopted through the major substantive rule-making process set forth in the Maine Administrative Procedure Act. Second, the bill requires that the standards for county and municipal jails and detention facilities be evidenced-based, minimize the imposition of additional costs and reflect best practices for the operation and administration of jails.