

STATE OF MINNESOTA
COURT OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Permanent
Rules Relating to Jail Facilities

**ORDER OF THE CHIEF
ADMINISTRATIVE LAW JUDGE
ON REVIEW OF RULES**

This matter came before the Chief Administrative Law Judge pursuant to Minn. Stat. § 14.15, subds. 3, 4 (2026), and Minn. R. 1400.2240, subp. 4 (2025). These provisions require that the Chief Judge review an administrative law judge's findings that a proposed agency rule is defective and should not be approved.

This rulemaking concerns rules proposed by the Department of Corrections (Department) to amend the administrative rules governing Minnesota jail facilities under Minn. Stat. § 241.021, subd. 1(a) (2026). Administrative Law Judge Christa L. Moseng issued a report on August 24, 2026, in which she approved the proposed rules, with the exception of proposed Minn. R. 2911.1300, subp. 4, which she disapproved. Rules approved by the Judge Moseng are not before the Chief Administrative Law Judge for review. Rather, this review is limited to consideration of the proposed rule disapproved by the Administrative Law Judge.

Based upon a review of Minnesota Statutes, Minnesota Rules, and the rulemaking record, and for the reasons expressed the accompanying Memorandum, the Chief Administrative Law Judge issues the following:

ORDER

The Department's proposed Minn. R. 2911.1300, subp. 4, is **APPROVED**.

Dated: September 3, 2026


JESSICA A. PALMER-DENIG
Chief Administrative Law Judge

NOTICE

This Report must be available for review to all affected individuals upon request for at least five working days before the agency takes any further action on the rules. The Agency may then adopt the final rules or modify or withdraw its proposed rules. If the Agency makes any changes in the rules, it must submit the rules to the Chief Administrative Law Judge for a review of the changes prior to final adoption. Upon adoption of final rules, the Agency must submit a copy of the Order Adopting Rules to the Chief Administrative Law Judge. After the rules' adoption, the CAH will file certified copies of the rules with the Secretary of State. At that time, the Agency must give notice to all persons who requested to be informed when the rules are adopted and filed with the Secretary of State.

MEMORANDUM

This rulemaking matter arises in the context of grave concerns about deaths and suicide attempts in Minnesota's jails. In response to these concerns and legislative changes adopted beginning in 2021, the Department proposed a comprehensive overhaul of its rules governing inspection and licensing of Minnesota's jails. As a part of those revisions, the Department proposed Minn. R. 2911.1300, subp. 4, to provide minimum standards for annual training requirements for "custody staff." Custody staff are "facility staff whose primary duty is supervising inmates."¹ Proposed Rule 2911.1300, subp. 4, states:

After the first year of employment and every year thereafter, custody staff must receive at least 20 hours of annual training, which must include at least the following topics:

A. well-being checks;

B. admissions;

C. response to resistance; and

D. medical training and training on suicide risk and prevention under subpart 2, items O and P, except CPR if the regular training complies with the requirements under subpart 3.²

In its Statement of Need and Reasonableness (SONAR), the Department indicated that the current rule requires 16 hours of training for custody staff,³ the same number of hours mandated for support staff,⁴ who are clerical, maintenance, food service, and contracted staff.⁵ The Department noted that custody staff have more

¹ Proposed Rule 2911.0200, subp. 26.

² Ex. C at 28; Ex. K-5 at 28.

³ Minn. R. 2911.1300 (2025).

⁴ Minn. R. 2911.1200 (2025).

⁵ Proposed Rule 2911.0200, subp. 70a.

extensive duties than support staff and the Department determined that 16 hours of training is insufficient for staff with roles requiring more direct contact with individuals who are confined.⁶ The Department maintained that the required hours of annual training should reflect the extensive job duties of custody staff and the increase to 20 hours, in at least the four subject areas addressed by the proposed rule, ensures that custody staff are well trained to respond to health and security events.⁷ The Department also noted as a comparison that its correctional officers⁸ receive 40 hours of annual training.⁹

During the prehearing comment period, the Department received a number of comments about the increase from 16 to 20 annual training hours for custody staff. Commenters noted that increasing annual training hours to 20 would require custody staff to have more than the 48 hours required every three years for licensed peace officers,¹⁰ and commenters contended that the additional training hours would increase the financial burden on jail facilities.¹¹ Commenters asserted that the explanation in the SONAR did not clearly show how the Department arrived at the 20-hour total or identify data supporting a requirement of 20 hours rather than 16 hours.¹² Another commenter asserted the training guidelines should focus on the quality and relevance of the training, not the number of hours.¹³

In response, the Department stated that “increasing annual training hours from 16 to 20 hours represents a modest increase that remains substantially below the training requirements imposed on state correctional officers.”¹⁴ The Department noted that “custody staff are increasingly required to respond to complex medical emergencies, behavioral-health crises, substance-use disorders, suicide prevention concerns, and emergency-response situations.” The Department indicated that the proposed rule changes were “rationally related to the department’s objective of safe and secure jail facilities because properly trained staff are better equipped to safely

⁶ Exhibit (Ex.) D at 95.

⁷ Ex. D at 95.

⁸ See Minn. Stat. § 241.026, subd. 1(b) (2026) (defining correctional officer as “person employed by the state, a state correctional facility, or a local correctional or detention facility in a security capacity”).

⁹ Ex. D at 95.

¹⁰ Peace officers are licensed and regulated by the Board of Peace Officer Standards and Training and are charged with preventing and detecting crime and the enforcement of laws. See Minn. Stat. § 626.84 (2026).

¹¹ See, e.g., Ex. I (Letter from Shawn Larsen, Morrison County Sheriff); (Letter from Scott C. Adams, Faribault County Sheriff); (Letter from West Central-5th District Jail Administrators); (Letter from Sean Deringer, Wright County Sheriff); (Letter from Eric Klang, Crow Wing County Sheriff); (Letter from Lon S. Thiele, Steele County Sheriff); (Letter from Jesse J. Thomas, Rice County Sheriff); (Letter from Steven C. Sandvik, Mower County Sheriff); (Letter from Bryan Welk, Cass County Sheriff).

¹² See, e.g., Ex. I (Letter from Steve Soyka, Stearns County Sheriff); (Letter from Jason Riggs, Beltrami County Sheriff); (Letter from Jeff Wersal, Blue Earth County Sheriff).

¹³ See, e.g., Ex. I (Letter from Ryan Kruger, Nobles County Sheriff); (Letter from Jeff Markquart, Martin County Sheriff).

¹⁴ Ex. K-4 at 12.

supervise incarcerated individuals, respond to emergencies, identify mental-health or withdrawal concerns, and prevent suicide, overdose, or serious injury.”¹⁵

Judge Moseng disapproved proposed Rule 2911.1300, subp. 4. Judge Moseng agreed that the subject areas identified for training were rationally related to the Department’s goals, but found that the Department had not identified a specific substantive justification for the increase in training hours from 16 to 20. Judge Moseng also expressed concern about a possible ambiguity related to the exclusion of cardiopulmonary resuscitation (CPR) training from the list of topics and questioned whether that exclusion impacted the required number of training hours.¹⁶

An agency bears the burden to show the need for and reasonableness of the proposed rule.¹⁷ To meet this burden, an agency must establish that the rule bears some rational relation to the accomplishment of a legitimate public purpose.¹⁸ Courts afford agencies discretion in deference to their expertise and special knowledge.¹⁹ An agency must explain the evidence on which it relies and how that evidence connects in a rational manner with the course of action the agency selects.²⁰ At times, agencies must “make judgments and draw conclusions from suspected, but not completely substantiated, relationships between facts, from trends among facts, from theoretical projections from imperfect data, from probative preliminary data not yet certifiable as fact, and the like.”²¹ The Chief Judge respectfully disagrees with the Administrative Law Judge and determines that the Department met its burden.

The Commissioner of Corrections is charged by statute to inspect and license all of the state’s correctional facilities and to establish minimum standards through rulemaking addressing “their management, operation, physical condition, and the security, safety, health, treatment, and discipline of persons confined or incarcerated therein.”²² The Department identified a serious regulatory problem to be addressed through promulgating these minimum standards: the number of deaths and suicides of persons confined in Minnesota’s jails.²³ The Department also recognized that jails are difficult to regulate because of the high level of variability in Minnesota’s jails, which range from two-bed holding facilities to those holding more than 500 people.²⁴ Jails hold individuals subject to pre-trial detention who have not been convicted of offenses, as well as those who have been sentenced.²⁵ Jails hold people for varying lengths of time and see individuals with an array of behavioral and health problems, including those

¹⁵ Ex. K-4 at 13.

¹⁶ Report of the Administrative Law Judge at 33-35 (Aug. 24, 2026).

¹⁷ Minn. Stat. § 14.14, subd. 2 (2026).

¹⁸ *Manufactured Hous. Inst. v. Petterson*, 347 N.W.2d 238, 243 (Minn. 1984).

¹⁹ *Petterson v. Minn. Dep’t of Labor & Indus.*, 591 N.W.2d 76, 79 (Minn. Ct. App. 1999).

²⁰ *Id.*

²¹ *Minn. Env’tl. Sci. and Econ. Review Bd. v. Minn. Pollution Control Agency*, 870 N.W.2d 97, 102 (Minn. Ct. App. 2015) (quoting *Petterson*, 347 N.W.2d at 244).

²² Minn. Stat. § 241.021, subd. 1(a).

²³ Ex. D at 14-18, 21-23.

²⁴ *Id.* at 22.

²⁵ *Id.*

who have substance use disorders and mental health conditions.²⁶ In determining minimum standards, given the variability of the environment in Minnesota's jails, the Department sought to offer flexibility in how the jails may comply with the minimum standards.²⁷

The Department identified several key factors supporting its decision to increase the number of required training hours for custody staff from 16 to 20. The Department made two comparisons related to the number of training hours – between custody and support staff in jails and between custody staff in jails and correctional officers, who are charged with facility security.²⁸ Commenters offered a different comparison between the required training hours for custody staff and licensed peace officers, who are not regulated by the Department, but this alternative comparison does not indicate a flaw in the Department's reasoning. The Department was operating within its knowledge and expertise in comparing roles between staff members in custodial settings who are all regulated by the Department and subject to minimum standards that the Department sets.

The Department stated in the SONAR that some jails hold individuals only up to 72 hours, and that a short length-of-stay for some individuals combined with increased health care needs requires inventive solutions.²⁹ The Department determined that 16 hours of training was insufficient given the complexity of the role of custody staff, who have direct responsibilities for the health, safety, and security of those who are confined, and the new rule standards the Department sought to create.³⁰ The Department is adopting the new standards in response to documented deficiencies in care,³¹ which occurred while custody staff were subject to a minimum 16-hour training requirement. The Department has not specified particular content requirements for the training, other than that it must cover certain subjects. This also does not indicate a flaw in the record, as this approach is consistent with the Department's intent to offer flexibility for jails to tailor annual training to the needs of a particular facility and its custodial population. The Department also recognized that some jails may incur additional costs for training. The Chief Judge understands that Minnesota's jails face significant difficulties and cost constraints, but an increase in costs for some regulated parties does not invalidate an agency's proposed rule.

As noted in Judge Moseng's order, agencies are entitled to make choices among possible regulatory approaches, so long as the agency chooses a rational course of action, and this Court does not substitute its judgment to determine the better or best approach to a regulatory problem.³² The record before the Court supports finding that the 20-hour training requirement is rationally related to a legitimate governmental purpose, which is to ensure that custody staff are trained to adequately address the

²⁶ *Id.* at 16, 22.

²⁷ *Id.* at 24.

²⁸ *Id.* at 95.

²⁹ *Id.* at 17, 22.

³⁰ *Id.* at 95.

³¹ *Id.* at 14-16.

³² See Report of the Administrative Law Judge at 23 (Aug. 24, 2026).

health, safety, and security needs of those in custody and to support prevention of deaths and suicides. Under the legal standards that apply in rulemaking, the Department is permitted to rely on its knowledge and expertise, and may draw conclusions from the relationship between facts, even if not completely substantiated, and rely on theoretical projections from imperfect data.³³ The absence of hard data about the benefits of an additional four hours of training does not make the Department's approach invalid.

The Chief Judge also does not share the Administrative Law Judge's concern about a potential ambiguity in proposed Rule 2911.1300, subp. 4. Proposed subpart 3 of the same rule requires training in CPR for custody staff, and the exclusion in subpart 4 ensures that jails are not required to double up on the CPR training requirement. The Chief Judge, therefore, respectfully disagrees with the Administrative Law Judge's analysis of this issue.

For the reasons explained above, the Chief Judge determines that the Department has met its burden to show the need for and reasonableness of proposed Rule 2911.1300, subp. 4. Therefore, this rule part is **APPROVED**.

J. P. D.

³³ *Minn. Env'tl. Sci. and Econ. Review Bd.*, 870 N.W.2d at 102.

STATE OF MINNESOTA
COURT OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Permanent
Rules Relating to Jail Facilities

**REPORT OF THE
ADMINISTRATIVE LAW JUDGE**

This matter came before Administrative Law Judge Christa L. Moseng for a rulemaking hearing on May 28, 2026. The public hearing was held remotely through an interactive video conference on the WebEx platform.

As explained below, the Minnesota Department of Corrections (Department or DOC) proposes to amend the administrative rules governing Minnesota jail facilities. The proposed rule amendments are intended to (1) adopt minimum standards to protect the health and safety of jail staff and the incarcerated population; (2) clarify vague or ambiguous language in existing rules; (3) strengthen jail policies and procedures; and, (4) revise in plain language. The public hearing and this Report are part of a larger rulemaking process under the Minnesota Administrative Procedure Act (APA).¹ The Minnesota Legislature designed this process to ensure that state agencies meet all the requirements of law and rule in adopting and amending rules.

The public hearing was conducted to permit Department representatives and the Judge to hear public comments regarding the impact of the proposed rules and any changes that might be appropriate. Further, the hearing process provides the public an opportunity to review, discuss, and critique the proposed rules, and to ensure a fully developed rulemaking record. In addition to the comments received at the public hearings, the public was permitted to submit written comments into the record.

As described more extensively below, the agency must establish that the proposed rules are needed and reasonable; the rules are within the agency's statutory authority; the agency has fulfilled all procedural requirements; and that any modifications to the rule made after the proposed rules were initially published in the *State Register* are within the scope of the matter that was originally announced.

SUMMARY OF RECOMMENDATION

1. The proposed rules should be **APPROVED**, with one exception. The following provision of the adopted rules should be **DISAPPROVED** as not meeting the requirements of Minn. Stat. § 14.14, subd. 2 and Minn. R. 1400.2100 (B): proposed rule part 2911.1300, subp. 4.

¹ See Minn. Stat. §§ 14.05-.20 (2026). See *also*, Minn. R. 1400.2000-.2310 (2025).

2. Under Minnesota Statutes, section 14.15, subd. 4 and Minnesota Rules, part 1400.2240, subpart 4, the rules will be submitted to the Chief Administrative Law Judge for review.

Based on the evidence in the hearing record, including the Department's exhibits, and the oral and written comments received, the Judge makes the following:

FINDINGS OF FACT

I. Background Regarding the Proposed Rules

1. In 2019 the Department of Corrections began the process of a comprehensive update to the administrative rules governing licensed correctional facilities in Minnesota.²

2. In 2021 the Minnesota Legislature made substantive changes to the statutes underlying the Department's licensing and rule enforcement capabilities.³ These changes included mandating that the Department include 17 specific topics in its minimum standards:

- (1) screening, appraisal, assessment, and treatment for persons confined or incarcerated in correctional facilities with mental illness or substance use disorders;
- (2) a policy on the involuntary administration of medications, including a process for determining on intake whether a Jarvis Order is in place and ensuring it will be followed during the confinement or incarceration;
- (3) suicide prevention plans and training;
- (4) verification of medications in a timely manner;
- (5) well-being checks;
- (6) discharge planning, including providing prescribed medications to persons confined or incarcerated in correctional facilities upon release;
- (7) a policy on referrals or transfers to medical or mental health care in a noncorrectional institution;
- (8) use of segregation and mental health checks;
- (9) critical incident debriefings;
- (10) clinical management of substance use disorders and opioid overdose emergency procedures;

² Exhibit (Ex.) A-1 at 20 (May 6, 2019 Request for Comments).

³ Ex. B-1 (2021 Minnesota Session Laws, Chapter 11, Article 9).

- (11) a policy regarding identification of persons with special needs confined or incarcerated in correctional facilities;
- (12) a policy regarding the use of telehealth;
- (13) self-auditing of compliance with minimum standards;
- (14) information sharing with medical personnel and when a medical assessment must be facilitated;
- (15) a code of conduct policy for facility staff and annual training;
- (16) a policy on death review of all circumstances surrounding the death of an individual committed to the custody of the facility; and
- (17) dissemination of a rights statement made available to persons confined or incarcerated in licensed correctional facilities.⁴

3. The proposed rules are the result of both the Department's goal of a comprehensive update to its administrative rules for licensed correctional facilities and these legislative mandates.

II. Rulemaking Authority

4. Minn. Stat. § 241.021, subd. 1(a) requires the Commissioner of Corrections to “inspect and license all correctional facilities throughout the state, whether public or private, established and operated for the detention and confinement of persons confined or incarcerated therein according to law except to the extent that they are inspected or licensed by other state regulating agencies.”

5. The Commissioner also must “promulgate, pursuant to chapter 14, rules establishing minimum standards for these facilities with respect to their management, operation, physical condition, and the security, safety, health, treatment, and discipline of persons confined or incarcerated therein.”⁵ These must include the 17 minimum standards listed above.⁶

6. The Department has statutory authority to adopt the proposed rules under Minn. Stat. § 241.021.

⁴ Minn. Stat. § 241.021, subd. 1(a) (2026). (Since their original enactment in 2021 the Legislature also updated the language of Minn. Stat. §§ 241.021, subd. 1(a)(10) and subd. 1(a)(2) in 2023 and 2025 respectively. See Ex. B-2; Ex. B-3.).

⁵ Minn. Stat. § 241.021, subd. 1(a).

⁶ *Id.*

III. Procedural Requirements of Minn. Stat. Ch. 14 and Minn. R. Ch. 1400

A. Request for Comments

7. Minn. Stat. § 14.101 requires agencies to solicit comments from the public on the subject matter of the proposed rules at least 60 days prior to the publication of a notice of intent to adopt rules or notice of hearing. The notice must be published in the State Register.⁷

8. On May 6, 2019, the Department published a Request for Comments in the state Register seeking comments on possible changes to rules governing adult detention facilities.⁸

9. On September 20, 2021, the Department published a second Request for Comments on possible changes to rules relating to adult detention facilities.⁹

10. Both the May 6, 2019, and September 20, 2021, Requests for Comments were published at least 60 days prior to the publication of the Notice of Intent to Adopt Rules, as discussed below.

11. The Department complied with the requirements set forth in Minn. Stat. § 14.101.

B. Publication of Notice of Intent to Adopt Rules with a Hearing

12. Minn. Stat. § 14.14, subd. 1a(a) (2026) and Minn. R. 1400.2080, subp. 6 (2025) require an agency to publish notice of its intent to adopt rules in the State Register at least 30 days prior to the date of a hearing and at least 30 days before the end of the comment period.

13. On March 16, 2026, the Department requested that the Court of Administrative Hearings schedule a hearing on the proposed rules and, pursuant to Minn. R. 1400.2080, subp. 5 (2025), requested review and approval of its proposed Notice of Intent to Adopt Rules with a Hearing.¹⁰

14. On March 19, 2026, the Judge issued an Order approving the Department's proposed notice.¹¹

⁷ Minn. Stat. § 14.101, subd. 1.

⁸ Ex. A-1.

⁹ Ex. A-2 (Sep. 20, 2021, Request for Comments).

¹⁰ Hearing Request and Request to Approve Additional Notice Plan (Mar. 16, 2026).

¹¹ Order on Review of Additional Notice Plan and Notice of Hearing (Mar. 19, 2026).

15. On March 30, 2026, the Department published the Notice of Intent to Adopt Rules with a Hearing in the State Register.¹² The notice stated that a hearing would be held virtually via WebEx at 9:00 a.m. on May 28, 2026.¹³ It also stated that written comments on the proposed rules would be accepted until 4:30 p.m. on April 30, 2026.¹⁴

16. The published Notice of Intent to Adopt Rules with a Hearing contains all the information required by Minn. R. 1400.2080 and was published more than 30 days before both the hearing date and the close of the comment period.¹⁵

C. Notice Requirements

1. Notice to Official Rulemaking List

17. Minn. Stat. § 14.14, subd. 1a, requires an agency to maintain a list of all persons who are registered with that agency to receive notice of rule proceedings. That statute requires that an agency give notice of intent to adopt rules by U.S. Mail or electronic mail to everyone on this official rulemaking list at least 30 days before the date of a hearing.¹⁶

18. Minn. R. 1400.2080, subp. 6, requires that a notice of hearing or notice of intent to adopt rules be mailed at least 33 days before the start of a hearing or the end of the comment period.

19. On March 26, 2026, 33 days before the end of the comment period, the Department emailed a copy of the Notice of Intent to Adopt Rules with a Hearing to everyone on its official rulemaking list.¹⁷

20. The Department fulfilled the notice requirements set out in Minn. Stat. § 14.14, subd. 1a and Minn. R. 1400.2080.

2. Additional Notice

21. Minn. Stat. § 14.14, subd. 1a(a), requires an agency to make reasonable efforts to provide notice to persons or classes of persons who may be significantly affected by the proposed rulemaking. This may be done by giving notice in newsletters, newspapers, other publications, or by other means of communication.¹⁸ This is known as “additional notice” and is described by an agency in its additional notice plan.

¹² Ex. F-2 (March 30, 2026, Notice of Intent to Adopt Rules) (Misabeled as a second Ex. F-1 in the Department's filings).

¹³ Ex. F-2.

¹⁴ Ex. F-2.

¹⁵ Minn. Stat. § 14.14, subd. 1a; Minn. R. 1400.2080, subp. 6.

¹⁶ Minn. Stat. § 14.14, subd. 1a.

¹⁷ Ex. G (Certificate of Emailing Notice to Rulemaking Notice List).

¹⁸ Minn. Stat. § 14.14, subd. 1a(a).

22. Minn. Stat. §§ 14.131 and .23, both require an agency to include a description of its efforts to provide additional notice in its Statement of Need and Reasonableness (SONAR). If no such efforts were made, the agency must explain its reasons for that choice.¹⁹

23. Agencies may request approval of an additional notice plan by an Judge before publishing a request for comments or notice of proposed rules.²⁰

24. On March 16, 2026, the Department requested review and approval of its Additional Notice Plan by the Judge, pursuant to Minn. R. 1400.2060.²¹

25. The Department's Additional Notice Plan included emailing copies of the notice, proposed rules, and SONAR to the following groups:

- a. all members of the Department's 2024-2025 advisory committee;
- b. all jail administrators and sheriffs operating a licensed jail;
- c. the Minnesota Sheriff's Association, including its Correctional Health Division;
- d. the Association of Minnesota Counties;
- e. all County Boards;
- f. the State Public Defender for Minnesota and the Minnesota Chief Appellate Public Defender;
- g. the Minnesota County Attorney's Association;
- h. the Office of the Ombuds for Corrections;
- i. the Minnesota Departments of Health and Human Services;
- j. Minnesota Direct Care and Treatment;
- k. the Minnesota Office of Addiction and Recovery, and the Governor's Advisory Council on Opioids, Substance Use, and Addiction;
- l. the Local Public Health Association of Minnesota;
- m. the Minnesota Social Service Association;
- n. the Minnesota Association of County Social Service Administrators;

¹⁹ Minn. Stat. § 14.131; Minn. Stat. § 14.23.

²⁰ Minn. R. 1400.2060 (2025).

²¹ Hearing Request and Request to Approve Additional Notice Plan (Mar. 16, 2026).

- o. Advanced Correctional Healthcare, Inc.;
- p. National Alliance on Mental Illness (NAMI) Minnesota;
- q. Minnesota Disability Law Center;
- r. Minnesota Council on Disability;
- s. The Advocates for Human Rights;
- t. Detainee Rights Clinic, University of Minnesota; and
- u. Violence Free Minnesota²²

26. The Department's Additional Notice Plan also proposed to publish the proposed rules, SONAR, and other notices on the Department's rulemaking webpage, and post an announcement about the rules on the home page of the Department's website.²³

27. On March 19, 2026, the Judge issued an Order approving the Department's proposed Additional Notice Plan.²⁴

28. On March 26, 2026, the Department emailed the Notice of Intent to Adopt Rules with a Hearing, SONAR, and the proposed rules to all persons and associations registered with the Department to receive rulemaking notices, all persons and associations on the Department's Chapter 2911 – Adult Detention Facilities list, and all persons and associations identified in the Additional Notice Plan.²⁵ The documents were delivered to a total of 962 GovDelivery subscribers.²⁶

29. The Department also posted an announcement about the proposed rules on the home page of its website, with a link to the relevant rulemaking page.²⁷

30. The Department has complied with its Additional Notice Plan and fulfilled the additional notice requirements listed in Minn. Stat. §§ 14.14, subd. 1a(a) and 14.131.

3. Notice to Legislators

31. Under Minn. Stat. § 14.116 (2026), whenever an agency distributes a notice of intent to adopt rules and SONAR pursuant to Minn. Stat. §§ 14.14 or 14.22, a copy must also be sent to specific members of the Minnesota Legislature.²⁸

²² Ex. D at 292-293 (Statement of Need and Reasonableness (SONAR)).

²³ *Id.*

²⁴ Order on Review of Additional Notice Plan and Notice of Hearing (Mar. 19, 2026).

²⁵ Ex. G (Certificate of Mailing Notice); Ex. H-1 (Certificate of Additional Notice given); Ex. H-2 (Additional Notice Plan Identified Individuals); Ex. H-3 (GovDelivery bulletin).

²⁶ Ex. H-4 (GovDelivery Bulletin Detail Report).

²⁷ Ex. H-5 (DOC Website Homepage Banner screenshot).

32. Additionally, if the mailing of this notice takes place within two years of the effective date of the law or amendment granting the agency authority to adopt the proposed rules, the agency must make reasonable efforts to send a copy of the notice and SONAR to all sitting legislators who were chief authors of the bill or authors of the amendment.²⁹

33. To comply with Minn. Stat. § 14.116, the Department emailed a copy of the Notice of Intent to Adopt Rules with a Hearing and SONAR to:

- a. Representatives Kelly Moller and Paul Novotny, co-chairs, Public Safety Finance and Policy Committee;
- b. Senator Ron Latz, Chair of the Judiciary and Public Safety Committee and Chief Author of the Hardel Sharrell Act;
- c. Senator Warren Limmer, Ranking Minority Member of the Judiciary and Public Safety Committee;
- d. Representative Jamie Long; Chief Author of the Hardel Sherrell Act; and
- e. the Legislative Coordinating Commission³⁰

34. The Department has complied with the requirements to provide notice to specific legislators pursuant to Minn. Stat. § 14.116.

4. Notice to the Legislative Reference Library

35. Minn. Stat. § 14.131 and Minn. R. 1400.2070, subp. 3 (2025) both require agencies to send a copy of the relevant SONAR to the Legislative Reference Library when a Notice of Intent to Adopt Rules is mailed out.

36. On March 26, 2026, the Department emailed a copy of the SONAR to the Legislative Reference Library.³¹

37. The Department has complied with Minn. Stat. § 14.131 and Minn. R. 1400.2070, subp. 3.

5. Notice to Commissioner of Agriculture

38. Minn. Stat. § 14.111 (2025) imposes additional notice requirements when an agency's proposed rules affect farming operations.

²⁸ Minn. Stat. § 14.116(b).

²⁹ Minn. Stat. § 14.116(c).

³⁰ Ex. K-1 (Notice to Legislators – letter and transmittal).

³¹ Ex. E-1 (Letter to Legislative Reference Library); Ex. E-2 (Transmittal Letter); Ex. E-3 (Certificate of Mailing).

39. The proposed rules do not impose restrictions on or otherwise have an impact on farming operations. As a result, the Department is not required to notify the Commissioner of Agriculture.³²

D. Rule Hearing and Submission of Written Comments

40. The Judge conducted a public rulemaking hearing on May 28, 2026, virtually via WebEx.³³

41. In support of the request for approval to adopt the proposed rules, the Department offered the following exhibits into the record, as required by Minn. Stat. § 14.14, subd. 2a and Minn. R. 1400.2220, subp. 1 (2025):

- a. A-1: Request for Comments published in the State Register on May 6, 2019
- b. A-2: Request for Comments published in the State Register on September 20, 2021
- c. B-1: 2021 Minnesota Session Laws, Chapter 11, Article 9
- d. B-2: 2023 Minnesota Session Laws, Chapter 61, Article 5
- e. B-3: 2025 Minnesota Session Laws, Chapter 35, Article 5
- f. B-4: Minn. Stat. § 241.021
- g. C: Revisor's Approved Draft of the Proposed Rules dated March 11, 2026
- h. D: Statement of Need and Reasonableness (SONAR)
- i. E-1: Letter to the Legislative Reference Library including the SONAR
- j. E-2: Transmittal Letter to Legislative Reference Library
- k. E-3: Certificate of Mailing to Legislative Reference Library
- l. F-1: Notice of Intent to Adopt Rules with a Hearing as mailed on March 26, 2026
- m. F-2: Notice of Intent to Adopt Rules with a Hearing as published in the State Register on March 30, 2026 (misabeled as F-1 in filed exhibits)

³² SONAR at 292-293.

³³ Ex. K-7 (May 28, 2026, Public Hearing Transcript).

- n. G: Combined Certificate of Mailing the Notice of Intent to Adopt Rules with a Hearing and Certificate of Accuracy of Mailing List
- o. H: Additional Notice Plan and Additional Notice transmittal certifications
- p. I: Written Comments received during Comment Period
- q. J: Not included, placeholder exhibit for possible request to omit text of rules
- r. K-1: Fiscal Analysis of the Proposed Rules by Minnesota Management and Budget
- s. K-2: Minn. Stat. § 14.116 Notice to Legislators³⁴

42. After the hearing the Department supplemented the record with the following additional exhibits:

- a. K-3: Hearing Participant List
- b. K-4: The Department's Responses to Prehearing Comments
- c. K-5: Revised Rule Draft dated May 22, 2026
- d. K-6: Hearing PowerPoint Slideshow
- e. K-7: May 28, 2026, Public Hearing Transcript
- f. K-8: The Department's Initial Hearing and Post-Hearing Comment Response
- g. K-9: A Working Draft of Changes to the March 11, 2026, Draft of the Proposed Rules
- h. K-10: Written Post-Hearing Comments
- i. K-11: The Department's final response to hearing, post-hearing, and rebuttal comments³⁵

43. Paul Schnell, Commissioner for the Minnesota Department of Corrections spoke regarding the Department's work on, and goals for, the proposed rules.³⁶ Tara Rathman, Rulemaking Manager for the Department, offered the Department's exhibits

³⁴ Department Exhibits A–K (May 7, 2026).

³⁵ Department Updated Exhibit List and Exhibits K-3 to K-7 (June 8, 2026); Department Exhibits K8 and K9 (June 17, 2026); Exhibit K10 – Written Post-Hearing Comments (June 18, 2026); Department Exhibit K11 – Final Response to Hearing, Post-Hearing, and Rebuttal Comments (June 25, 2026).

³⁶ Ex. K-7 at 198-203.

and addressed the need for the proposed rules.³⁷ Amy Lauricella, Director of Policy and Rulemaking for the Department, gave a presentation explaining the Department's obligations in rulemaking and the need and reasonableness of the proposed rules.³⁸

44. The hearing was open to all members of the public who wished to attend. The proceedings continued until all interested persons, groups, or associations had an opportunity to be heard. Six members of the public offered comments at the virtual public hearing.³⁹

45. The post-hearing comment period remained open until June 17, 2026, and six written comments were received.⁴⁰ The record remained open for an additional five business days, until June 25, 2026, to allow interested persons and the Department to file a written response to the comments received.⁴¹ Four additional comments were received.⁴² The Department filed a response to comments received at the hearing, during the post-hearing comment period, and during the rebuttal comment period, on June 25, 2026, and the record closed on that date.⁴³

46. On June 26, 2026, the Department filed two further copies of the proposed rules: (1) an updated, red-lined draft of the proposed rules reflecting changes introduced since their publication in the State Register, and (2) a clean, Revisor-approved copy of the post-modification proposed rules.⁴⁴ And on July 6, 2026 the Department submitted a public comment from Park Street Public. The record in this matter had closed pursuant to Minn. R. 1400.2230, subp. 3 (2025) prior to these filings.

47. While the late filings are arguably a procedural error by the Department, under Minn. Stat. § 14.51, subd. 5, the Judge shall disregard procedural errors by an agency if “that failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.”⁴⁵ The purpose of the final copies of the proposed rules was to provide the Judge with a clean copy to work from in producing this report.⁴⁶ The purpose of submitting the public comment was to ensure Park Street Public could participate in the rulemaking. The late filings did not deprive any person of an opportunity to participate, and the error will be disregarded.

48. On July 6, 2026, Chief Judge Jessica A. Palmer-Denig issued an Order Granting Extension, changing the deadline for the Judge's report to August 24, 2026.⁴⁷

³⁷ *Id.* at 203-207.

³⁸ *Id.* at 207-216.

³⁹ Ex. K-7.

⁴⁰ Ex. K-10.

⁴¹ Ex. K-7.

⁴² Ex. K-11 at 7.

⁴³ Ex. K-11.

⁴⁴ Department Revisor Draft (June 26, 2026).

⁴⁵ Minn. Stat. § 14.51, subd. 5(1) (2026).

⁴⁶ Department Revisor Draft at 1 (June 26, 2026).

⁴⁷ Order Granting Extension (July 6, 2026).

IV. Statutory Requirements

A. Regulatory Factors

49. The Minnesota Administrative Procedure Act requires an agency engaged in rulemaking to address eight factors in its SONAR.⁴⁸ Those factors are:

- (1) A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
- (2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;
- (3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;
- (4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;
- (5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;
- (6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals;
- (7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference; and
- (8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule and reasonableness of each difference.⁴⁹

⁴⁸ Minn. Stat. § 14.131.

⁴⁹ *Id.*

1. Classes of Persons Affected, Benefitted, or Bearing Costs of the Proposed Rule

50. In the SONAR, the Department states that the proposed rules are likely to affect the following classes of people:

- incarcerated people;
- licensed county jails, including jail staff such as administrators, custody staff, health-care staff, and support or clerical staff;
- health-care providers that contract with jails to provide care services, including local government health agencies;
- food-service providers that contract with jails;
- county sheriffs, including the Minnesota Sheriff's Association;
- county commissioners and county boards;
- Community Corrections Act administrators;
- the Association of Minnesota Counties;
- the Office of the Ombuds for Corrections;
- the Minnesota Departments of Health and Human Services, and Minnesota Direct Care and Treatment;
- the Minnesota Office of Addiction and Recovery and the Governor's Advisory Council on Opioids, Substance Use, and Addiction; and
- community-based providers of mental-health treatment and substance-use-disorder treatment.⁵⁰

51. The SONAR states that the main class that will bear the costs of the proposed rules will be the jails themselves, incurred in implementing them.⁵¹ The Department notes that a more specific analysis of these costs is complicated by the variation in jail sizes, locations, and labor costs, as well as differences in incarcerated populations and their associated needs, and varying county policies.⁵²

⁵⁰ SONAR at 273.

⁵¹ *Id.* at 273.

⁵² *Id.* at 273-274.

52. The SONAR also states that because many of the new standards in the proposed rules are directly implementing statutory requirements, the Department's analysis attributes many new costs to the statute, rather than the proposed rules.⁵³ The Department cites the approval of rules adopted by the Minnesota Health Department in 2021 as support for this method of analyzing and calculating costs.⁵⁴

53. The SONAR states that updated, proactive standards and inspection programs have been shown to result in reduced liability exposure and improved conditions in jails.⁵⁵ As a result, the Department believes that all affected classes of persons will benefit from the proposed rules, as the anticipated increase in the safety and security of jails will benefit incarcerated people, all jail staff, and visitors.⁵⁶

54. The Department has satisfied the requirements of Minn. Stat. § 14.131(1).

2. Probable Costs to the Agency and Other Agencies for Implementation and Enforcement and Effect on State Revenues

55. The SONAR estimates that costs to the Department in implementing the proposed rules will be minimal, and that most will flow from training inspectors on the new rules and modifying inspection procedures to reflect new requirements. The Department plans to cover any costs with funding appropriated to it.⁵⁷

56. The SONAR describes one additional source of costs: an increase in costs and work for inspectors relating to 1) requests for variances from the proposed rules and 2) conducting inspections and investigating complaints.⁵⁸ Despite this, the Department states that its current staffing levels are adequate and does not plan to hire more inspectors.⁵⁹

57. The Department does not believe the proposed rules will result in increased costs for other agencies. The SONAR notes that agencies involved in processes affected by the proposed rules, such as review of food and menu requirements by dietitians licensed by the Minnesota Board of Dietetics and Nutrition Practice, may see slightly increased labor.⁶⁰ However, since those processes are changing, rather than being added, associated costs should be minimal.⁶¹

⁵³ *Id.*

⁵⁴ *Id.* (citing *In the Matter of the Proposed Rules of the Minnesota Department of Health Governing Assisted Living Facilities*, Minnesota Rules Chapter 4659, No. 65-9000-37175, Report of the Judge (Minn. Ct. Admin. Hearings Mar. 29, 2021)).

⁵⁵ SONAR at 275.

⁵⁶ *Id.*

⁵⁷ *Id.* at 275-276.

⁵⁸ *Id.* at 276.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

58. Nothing in the SONAR establishes that the Department analyzed the impact of the proposed rules on state revenues. The analysis of the proposed rules by Minnesota Management and Budget concludes that there would be no direct impact on state revenues.⁶² Since the impact was addressed in the MMB's analysis, which was included in the record, and since there is no disagreement from any member of the public on whether the proposed rules would have an impact on state revenues, this error will be disregarded as harmless.⁶³

59. The Department has substantially satisfied the requirements of Minn. Stat. § 14.131(2).

3. Less Costly or Less Intrusive Methods for Achieving the Purpose of the Proposed Rule

60. The SONAR states that the purpose of the proposed rules is to improve jail regulations in order to (1) protect the public; (2) ensure the safety of persons living and working in jails; and (3) require jails to provide care and service to justice-involved populations that meet the requirements of statute and common law.⁶⁴ The SONAR also states that the legislature mandated adoption of minimum standards on 17 specific topics. Given these two factors, the Department concludes that there are no less costly or less intrusive methods for achieving the purpose of the proposed rules.⁶⁵

61. The SONAR also states that mandating jails to comply with American Correctional Association and National Commission on Correctional Health Care requirements could have achieved the purpose of the rules. However, while the proposed rules do rely in part on those standards, wholesale adoption would have been more costly and less practical for both individual jails and the Department.⁶⁶

62. The Department has satisfied the requirements of Minn. Stat. § 14.131(3).

4. Description of Alternative Methods for Achieving the Purpose of the Proposed Rule Considered by the Agency and Why Alternatives Were Rejected

63. The SONAR states that because the Minnesota Legislature directed it to adopt 17 specific standards for jails, the Department was unable to identify any feasible alternative methods for achieving the purpose of the proposed rules.⁶⁷

64. The SONAR states that the Department considered alternative methods of implementing the specific standards, such as requiring individual jails to establish policies and procedures relating to each of the 17 mandated topics.⁶⁸ This approach

⁶² Ex. K-1.

⁶³ Minn. Stat. § 14.15, subd. 5.

⁶⁴ SONAR at 276.

⁶⁵ *Id.*

⁶⁶ *Id.* at 276-277.

⁶⁷ *Id.* at 277.

⁶⁸ *Id.*

was discarded given the language of the legislative directive to the Department regarding its obligation to develop minimum standards.⁶⁹

65. The Department also considered developing a range of minimum standards that would vary depending on the size or classification of a jail. Both approaches were discarded due to an anticipated increase in workload. The Department also notes that, if needed, individual jails may apply for individualized variances under Minn. R. 2911.0400 (2025) allowing for flexibility.⁷⁰

66. The Department has satisfied the requirements of Minn. Stat. § 14.131(4)

5. Probable Costs Complying with Proposed Rules, Including the Portion of the Total Costs Borne by Identifiable Categories of Affected Parties

67. Minn. Stat. § 14.131 (5) requires an agency to include “to the extent the agency, through reasonable effort, can ascertain . . . (5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals[.]”

68. The SONAR states that, based on the Department’s analysis, many of the probable costs associated with the proposed rules should be considered as stemming from statute rather than the rules.⁷¹

69. The SONAR also states that individual jails may see initial increases in staffing and health-care services related costs.⁷² These largely flow from the new care requirements, such as requiring 15-minute checks for individuals with medical concerns, as meeting those standards may necessitate hiring additional staff.⁷³ Staffing and contracts for health-care services account for the majority of a given jail’s costs.⁷⁴

70. The SONAR notes that the costs associated with health care for incarcerated individuals with mental illnesses or substance-abuse disorders have risen in recent years and will likely continue to rise regardless of whether the proposed rules are adopted.⁷⁵ The Department also states that the proposed rules may help jails better manage and care for their incarcerated populations, which may result in reduced long-term costs.⁷⁶

⁶⁹ SONAR at 277.

⁷⁰ *Id.* at 277-278.

⁷¹ *Id.* at 278.

⁷² *Id.*

⁷³ *Id.* at 278-279.

⁷⁴ *Id.*

⁷⁵ *Id.* at 279.

⁷⁶ *Id.*

71. The SONAR states that given the variation across each individual jail, the Department cannot accurately analyze the costs each one may require to comply with the rules.⁷⁷ The Department notes that it (1) provides more specific cost analysis for any proposed requirements that do not flow directly from the 17 statutorily-required standards, and (2) has examined wage data for correctional officers to help jails determine staffing-related costs.⁷⁸

72. Many commenters criticized the level of detail in the Department's effort to address this requirement.⁷⁹

73. An adequate cost evaluation under Minn. Stat. § 14.131 (5) need not be an exhaustive accounting of costs.⁸⁰ An agency is not required to provide a numerical total to satisfy this requirement.

74. The criticisms of the cost evaluation in the SONAR are not misplaced. The Department's cost evaluation is spare. For example, the Department's contention that some costs stem from statute and not rule⁸¹ is thin—it makes no effort to specifically articulate where it drew the line between a cost required by the authorizing statute, and a rule-derived cost.⁸²

75. In support of its conclusory distinction between statute- and rule-derived costs, the Department points to the SONAR for a rule promulgated by the Department of Health, which made a similar claim.⁸³ However, the remainder of the Department of Health's cost analysis under this requirement was considerably more detailed than the Department provides here.⁸⁴ Health offered a rule-by-rule discussion of anticipated costs, and estimated the average annual compliance costs for a facility.

76. Here, because jail facilities vary substantially in size, supervision style, classification, location, and make up of incarcerated population (i.e. health care needs, length of stay, alternative sentence), attempting to estimate an average anticipated cost would not likely result in helpful information. MMB concluded that attempting to identify

⁷⁷ SONAR at 297-280.

⁷⁸ *Id.* at 278-279.

⁷⁹ See, e.g., Ex. I, Comments of the Minnesota Sheriffs Association at 13.

⁸⁰ See *Builders Association of Twin Cities v. Board of Electricity*, 965 N.W.2d 350, 359 (Minn. Ct. App. 2021) (stating that the SONAR “is intended to be a summary of the evidence and rationale in support of a proposed rule”).

⁸¹ SONAR at 278.

⁸² In part, this required component of the SONAR is intended to demonstrate that the Department's consideration of costs is sufficient to either propose the least-cost rule, or to justify adopting an approach more costly than a lower-cost alternative. The authorizing statute requiring a rule on a subject does not obviate the need for the adopting agency to consider the costs of the approach it chose—because its approach must be compared to alternatives. Minn. Stat. § 14.131 (3), (4).

⁸³ Minnesota Department of Health, Statement of Need and Reasonableness for Assisted Living Licensure (December 2020), 12 (available at <https://www.revisor.mn.gov/rules/status/document/SONAR-04605.pdf>).

⁸⁴ The analysis in this SONAR is approximately two pages. The analysis in the Department of Health SONAR is approximately six pages.

the costs for each jail “could not be calculated with accuracy without significant time and effort.”⁸⁵

77. The Department did discuss the likely cost impacts arising from rules affecting staffing and health-care services. MMB identified other potential costs: small equipment costs (i.e. two-way radio devices) and supplies (i.e. emergency delivery kits); additional training costs (i.e. first aid and CPR training); increased costs for contracts with a dietician or nutritionist as well as additional food item costs; transportation costs for incarcerated persons; and, healthcare supplies (i.e. Narcan, long acting injectables). The Department also supplied wage data from multiple regions of the state to aid calculation of a facility’s staffing costs.

78. Many of the relevant parties who have the detailed information needed to perform the specific analyses (i.e., the sheriffs & jail administrators) have participated in the rulemaking process, provided detailed feedback on the likely costs to their specific facilities, and the Department has seen those comments, considered them, and responded to them. Requiring the agency to perform an exhaustive fiscal analysis, including a staffing analysis, of every county jail in Minnesota prior to implementing any rules concerning those facilities would be unreasonable.

79. After the hearing and its review of public comments, the Department supplemented its SONAR analysis.⁸⁶

80. Notwithstanding the gesture toward attributing costs to statute rather than rule, the SONAR and the consultation with MMB reasonably identifies the categories of costs likely to arise from the rules, chief among them staffing and health care services costs. And the record demonstrates that identifiable categories of rule-affected parties have notice of the Department’s intentions. The record provides jail administrators and county boards sufficient information to anticipate the costs for their facility. The Department has not deprived the public of fair notice of the agency’s intentions with respect to probable costs of its proposed rule.

81. The Department has satisfied the requirements of Minn. Stat. § 14.131(5).

6. Probable Costs or Consequences of not Adopting the Proposed Rules, Including Costs Borne by Individual Categories of Affected Parties

82. The SONAR states that probable costs and consequences of not adopting the proposed rules include injuries and deaths among incarcerated people, and litigation resulting from poorly trained jail staff.⁸⁷

⁸⁵ Ex. K-1.

⁸⁶ Ex. K-8 (Initial Hearing and Post-Hearing Comment Response) 35–41.

⁸⁷ SONAR at 280.

83. The SONAR also points to a range of settlements in wrongful-death lawsuits brought against jails in Minnesota and the rest of the United States as examples of the costs, both human and financial, that result when jails fail to meet minimum standards.⁸⁸ It states that these costs are borne both by the individuals who are harmed and society as a whole.⁸⁹

84. The Department has satisfied the requirements of Minn. Stat. § 14.131(6).

7. Assessment of Differences Between Proposed Rules and Existing Federal Regulations

85. The SONAR states that there are no differences between the proposed rules and existing federal regulations because there are no federal regulations or standards for local jails.⁹⁰ One exception exists insofar as jails will be required to follow some federal standards for substance-use disorder treatment but the Department states the proposed rules neither conflict with nor supersede those standards.⁹¹

86. The SONAR does note that in specific circumstances local jails can be required to follow certain federal laws, but these are limited to jails that contract with Immigration and Customs enforcement, or facilities that house juveniles.⁹² It also notes that all state jails are required to follow the federal Prison Rape Elimination Act.⁹³

87. The Department has complied with Minn. Stat. § 14.131(7).

8. Cumulative Effect of the Rule with Other Federal and State Regulations

88. The SONAR states that the cumulative effect of the proposed rules with other federal regulations will be minimal, particularly as the Department is not charged with inspecting jails for compliance with federal law.⁹⁴

89. The SONAR states that the cumulative effect of the proposed rules with other state law, such as licensing requirements for health care professionals or food, fire, and construction requirements for licensed facilities, will be minimal.⁹⁵ This is because the proposed rules do not substantively amend or affect any of those related standards.⁹⁶

90. The SONAR also states that the Department has worked to minimize the cumulative effect of the proposed rules in relation to the statutory requirements for jails

⁸⁸ SONAR at 280-281.

⁸⁹ *Id.*

⁹⁰ *Id.* at 282.

⁹¹ *Id.*

⁹² *Id.* at 282-283.

⁹³ *Id.*

⁹⁴ *Id.* at 283.

⁹⁵ *Id.*

⁹⁶ *Id.*

located in Minnesota Statutes Chapters 241 and 641.⁹⁷ This has been done by avoiding duplication of statutory language wherever possible and cross-referencing as needed.⁹⁸

91. The Department has satisfied the requirements of Minn. Stat. § 14.131(8).

B. Performance-Based Regulation

92. Minn. Stat. § 14.131 requires a SONAR to describe how an agency considered and implemented the legislative policy of supporting performance-based regulatory systems, as laid out in Minn. Stat. § 14.002 (2026). Performance-based rules emphasize superior achievement in meeting regulatory objectives and maximize flexibility for regulated parties and the agency.⁹⁹

93. In the SONAR, the Department emphasizes how its approach to the proposed rules focused on maintaining a balance between establishing minimum standards that afford individual jails more flexibility in implementing and enforcing them, and providing more detailed guidance.¹⁰⁰

94. The SONAR states that this hybrid model of updating minimum standards while providing more specific direction as needed will help prevent deaths and other serious incidents, and ensure that incarcerated people are treated with dignity and respect.¹⁰¹

95. The Department also considers its variance process, implemented in Minn. R. 2911.0400, as a process that maximizes flexibility for the regulated jails and the Department.¹⁰²

C. Consultation with the Commissioner of Minnesota Management and Budget

96. Minn. Stat. § 14.131 requires agencies to consult with the Commissioner of MMB for assistance in evaluating the fiscal impact and fiscal benefits of proposed rules on local units of government.

97. The Department sent MMB a copy of the proposed rules and the SONAR for review and evaluation.¹⁰³ On March 3, 2026, MMB issued a review of the proposed rules, analyzing them for fiscal impact on and benefits for units of local government.¹⁰⁴

98. MMB concluded that the proposed rules will have a fiscal impact on local governments because (1) jails are primarily funded through local county property taxes;

⁹⁷ SONAR at 283.

⁹⁸ *Id.*

⁹⁹ Minn. Stat. § 14.002.

¹⁰⁰ Ex. D at 284-285.

¹⁰¹ *Id.* at 278.

¹⁰² *Id.* at 285.

¹⁰³ *Id.* at 290.

¹⁰⁴ Ex. K-1 (MMB Fiscal Analysis).

and (2) the proposed rules will likely result in increased costs for those jail facilities.¹⁰⁵ Specifically, MMB identified possible increases in costs associated with staffing and workloads, training, equipment, health care personnel and related contracts or supplies, food and diet-related items or contracts, and transportation of incarcerated persons.¹⁰⁶

99. Minn. Stat. § 14.131 does not require a meticulous *accounting* of fiscal impacts and benefits, it requires an evaluation.¹⁰⁷

100. Here, MMB stated, in line with the Department's own analysis, that the degree of variation across different jails means that calculation of specific costs is not feasible.¹⁰⁸ It identified the following categories of potential costs:

increased staff resources and workloads; small equipment costs (i.e. two-way radio devices) and supplies (i.e. emergency delivery kits); additional training costs (i.e. first aid and CPR training); increase to health care personnel and/or contracts for health care services; increased costs for contracts with a dietician or nutritionist as well as additional food item costs; transportation costs for incarcerated persons; and, healthcare supplies (i.e. Narcan, long acting injectables).

101. MMB also concluded that the rules are designed with flexibility in mind to allow jails to manage costs within their budgets, including by requesting variances regarding specific requirements that may be particularly burdensome.¹⁰⁹ Finally, MMB noted that the minimum standards established by the proposed rules are intended to prevent injury and death and could therefore reduce costs to local units of government by preventing litigation and settlements.¹¹⁰

102. The Department satisfied the requirements of § 14.131 to consult with the Commissioner of MMB to help evaluate the fiscal impacts and benefits on local units of government.

D. Summary of Compliance with Minn. Stat. § 14.131

103. The Department has engaged in consideration and implementation of the legislative policy supporting performance-based regulatory systems, and consultation regarding the fiscal impact on units of local government. As a result, the Department has met the requirements set forth in Minn. Stat. § 14.131.

¹⁰⁵ Ex. K-1 at 866–67.

¹⁰⁶ *Id.*

¹⁰⁷ *See Builders Association of Twin Cities v. Board of Electricity*, 965 N.W.2d 350, 359 (discussing the level of detail required for a sufficient probable cost analysis).

¹⁰⁸ Ex. K-1 at 866–67.

¹⁰⁹ *Id.* at 867.

¹¹⁰ *Id.*

E. Cost to Small Businesses and Cities under Minn. Stat. § 14.127

104. Minn. Stat. § 14.127, subd. 1 (2026) requires agencies to “determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for: (1) any one business that has less than 50 full-time employees; or (2) any one statutory or home rule charter city that has less than ten full-time employees.” This determination must be made prior to the close of the hearing record. It is then reviewed by the Judge and either approved or disapproved.¹¹¹

105. The Department determined that the cost of complying with the proposed rules will not exceed \$25,000 for any business or any statutory or home rule charter city in the first year following the adoption of the rules, because the rules only affect county and regional jails, not municipal lockups.¹¹²

106. The Judge approves the Department’s determination pursuant to Minn. Stat. § 14.127, subd. 2.

F. Adoption or Amendment of Local Ordinances

107. Minn. Stat. § 14.128, subd. 1 (2026) requires agencies to determine, prior to the close of the hearing record, whether local governments will be required to adopt or amend ordinances or other regulation to comply with a proposed agency rule. This determination must then be approved or disapproved by the assigned Judge.¹¹³

108. The Department has determined that local governments will not be required to adopt or amend ordinances or regulations due to the proposed rules. The SONAR states that this is because jails are already regulated by the Department, and because the proposed rules do not affect any relevant local food, fire or other ordinances.¹¹⁴

109. The Judge approves the Department’s determination, pursuant to Minn. Stat. § 14.128, subd. 1.

V. Rulemaking Legal Standards

110. Under the Minnesota Administrative Procedure Act and associated rules, an agency proposing to adopt rules must: (1) establish its statutory authority to adopt the proposed rules; (2) show that it has fulfilled all relevant legal and procedural requirements; and (3) demonstrate the need for and reasonableness of each portion of the proposed rules with an affirmative presentation of facts.¹¹⁵

111. Under Minn. Stat. § 14.14, subd. 2, and Minn. R. 1400.2100, the agency must establish the need for, and reasonableness of, a proposed rule by an affirmative

¹¹¹ Minn. Stat. § 14.127, subd. 2.

¹¹² SONAR at 291.

¹¹³ Minn. Stat. § 14.128, subd. 1.

¹¹⁴ SONAR at 291.

¹¹⁵ Minn. Stat. §§ 14.05, subd. 1, .14, subd. 2; Minn. R. 1400.2100.

presentation of facts. In support of a rule, the agency may rely upon materials developed for the hearing record,¹¹⁶ “legislative facts” (namely, general and well-established principles that are not related to the specifics of a particular case, but that guide the development of law and policy),¹¹⁷ and the agency’s interpretation of related statutes.¹¹⁸

112. A proposed rule is reasonable if the agency can “explain on what evidence it is relying and how the evidence connects rationally with the agency’s choice of action to be taken.”¹¹⁹ By contrast, a proposed rule will be deemed arbitrary and capricious where the agency’s choice is based upon whim, devoid of articulated reasons or “represents its will and not its judgment.”¹²⁰

113. An important corollary to these standards is that, when proposing new rules, an agency is entitled to make choices between different possible regulatory approaches, so long as the alternative that is selected by the agency is a rational one.¹²¹ Thus, while reasonable minds might differ as to whether one or another particular approach represents “the best alternative,” the agency’s selection will be approved if it is one that a rational person could have made.¹²²

114. A rule must be disapproved if it:

- was not adopted in compliance with procedural requirements of Minn. Stat. ch. 14 and Minn. R. part 1400 (unless the Judge decides that the error is harmless error under Minn. Stat. §§ 14.15, subd. 5 or 14.26, subd. 3(d));
- is not rationally related to the agency’s objective or the record does not demonstrate the need for or reasonableness of the rule;
- is substantially different than the proposed rule, and the agency did not follow the procedures of Minn. R. 1400.2110;
- exceeds, conflicts or does not comply with, or grants the agency discretion beyond that which is allowed by law, its enabling statutes or other applicable law;
- is unconstitutional or illegal;

¹¹⁶ See *Manufactured Hous. Inst. v. Pettersen*, 347 N.W.2d 238, 240 (Minn. 1984); *Minn. Chamber of Commerce v. Minn. Pollution Control Agency*, 469 N.W.2d 100, 103 (Minn. Ct. App. 1991).

¹¹⁷ Compare generally, *U.S. v. Gould*, 536 F.2d 216, 220 (8th Cir. 1976).

¹¹⁸ See *Mammenga v. Agency of Human Services*, 442 N.W.2d 786, 789-92 (Minn. 1989); *Manufactured Hous. Inst.*, 347 N.W.2d at 244.

¹¹⁹ *Manufactured Hous. Inst.*, 347 N.W.2d at 244.

¹²⁰ See *Mammenga*, 442 N.W.2d at 789; *St. Paul Area Chamber of Commerce v. Minn. Pub. Serv. Comm’n*, 251 N.W.2d 350, 357-58 (Minn. 1977).

¹²¹ *Peterson v. Minn. Dep’t of Labor & Indus.*, 591 N.W.2d 76, 78 (Minn. Ct. App. 1999).

¹²² *Minn. Chamber of Commerce*, 469 N.W.2d at 103.

- improperly delegates the agency's powers to another agency, person or group;
- is not a "rule" as defined in Minn. Stat. § 14.02, subd. 4, or by its own terms cannot have the force and effect of law; or
- is subject to Minn. Stat. § 14.25, subd. 2, and the notice that hearing requests have been withdrawn and written response to it show that the withdrawal is not consistent with Minn. Stat. § 14.001(2), (4) and (5).¹²³

115. Because the Department made changes to the proposed rule language after the date it was originally published in the *State Register*, it is necessary for the Judge to determine if this new language is substantially different from that which was originally proposed.¹²⁴

116. At the rule hearing, the Department detailed the revisions it would make to the proposed rules in response to the stakeholder feedback received during the comment period.¹²⁵ After the hearing, on May 27, 2026, the Department filed additional modifications to the proposed rules.¹²⁶

117. The standards to determine whether any changes to proposed rules create a substantially different rule are found in Minn. Stat. § 14.05, subd. 2 (2026). The statute specifies that a modification does not make a proposed rule substantially different if:

- (1) the differences are within the scope of the matter announced in the notice of hearing and are in character with the issues raised in that notice;
- (2) the differences are a logical outgrowth of the contents of the notice of hearing, and the comments submitted in response to the notice; and
- (3) the notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.¹²⁷

118. In reaching a determination regarding whether modifications result in a rule that is substantially different, the Judge is to consider whether:

¹²³ Minn. R. 1400.2100.

¹²⁴ Minn. R. 1400.2110 (2025).

¹²⁵ Ex. K-7 (Hearing Tr.) 12–31.

¹²⁶ Letter to Judge Moseng from Tara Rathman (May 27, 2026).

¹²⁷ Minn. Stat. § 14.05, subd. 2.

- (1) persons who will be affected by the rule should have understood that the rulemaking proceeding could affect their interests;
- (2) the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the hearing notice; and
- (3) the effects of the rule differ from the effects of the proposed rule contained in the hearing notice.¹²⁸

VI. Analysis

119. Several sections of the proposed rules were not opposed by any member of the public—or were clearly revised to directly address concerns raised in comments submitted during the rulemaking process without creating a substantially different rule—and were adequately supported by the SONAR.

120. Additionally, the comments filed in this proceeding offer a substantial number of suggestions for reasonable alternative wording or approaches for proposed rules where the Department's proposed language is also reasonable. In light of the significant number of modifications in proposed comments, the number of revisions that the Department adopted that address concerns raised in comments, and because the Department is only required to demonstrate that its selected approach is reasonable—not necessarily the *most* reasonable—separately addressing each proposed modification would be both impractical and unnecessary.

121. For example, proposed part 2911.0200, subp. 2, defines “Administrative separation,” as follows:

"Administrative ~~segregation~~ separation" means the status of when an inmate is separated from general population because separation is the least restrictive alternative available and the inmate:

A. is prone to escape, is prone to assault staff or other inmates, poses a safety or security threat to other inmates or the facility, or likely to need needs protection from other inmates or protection from self, an inmate with a mental illness or a developmental disability who is in need of special care, or an inmate;

B. has been classified or identified as an inmate with special needs and must be separated for the inmate's health or safety; or

C. is on medical isolation or infirmary status.

¹²⁸ See Minn. Stat. § 14.05, subd. 2.

122. The Minnesota Sheriffs Association commented to suggest that administrative separation is used for safety of inmates from harm and is a predictive standard, the rule should continue to use “likely to need” rather than “needs” in item A.¹²⁹ It argues that a need determination may come too late to prevent harm.

123. The Department did not directly address this suggested language change, but did not revise its proposed rule in light of it.

124. The proposed language is within the Department’s authority to adopt minimum standards relating to the use of segregation.¹³⁰

125. The requirement for administrative separation to be limited to those who need separation is less vague and less broad than the existing “likely to need” standard and is rationally connected to the Department’s objectives.

126. Accordingly, this Report will not address each comment, suggested revision, or rule part. Rather, the analysis focuses on portions of the proposed rules for which commentators do not merely propose a reasonable modification but genuinely cast doubt on the reasonableness of the Agency’s regulatory choice or otherwise warrant closer examination.

127. Several commenters sought to elevate disagreement about whether the Department’s rule is a “minimum standard” under Minn. Stat. § 241.021 to a question of law. The Judge construes Minn. Stat. § 241.021 to require the Department to establish a minimum standard by applying its judgement as the expert agency, and not a mandate to adopt the barest, lowest-common-denominator requirements. The test, therefore, is whether a given requirement is needed and rationally connected to the Department’s objectives, not whether the Department could have required less of regulated parties.

128. The Agency has demonstrated by an affirmative presentation of facts the need for and reasonableness of all rule provisions not specifically addressed in this Report.

129. Similarly, for each modification made after the initial publication of the proposed rules not specifically addressed in this Report, the Judge finds that the differences are within the scope of the matter announced in the notice of hearing and are in character with the issues raised in that notice; that the differences are a logical outgrowth of the contents of the notice of hearing and the comments submitted in response to the notice; and, the notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

130. Further, all provisions that are not specifically addressed in this Report are authorized by law and that there are no other defects that would bar the adoption of those rules.

¹²⁹ Comments of the Minnesota Sheriffs Association (Apr. 27, 2026).

¹³⁰ Minn. Stat. § 241.021, subd. 1(a)(8).

A. Part 2911.0200, subp. 65a: Segregation Area

131. As originally proposed Minn. R. 2911.0200, subp. 65a, would amend the subpart as follows:

Subp. 65a. **Segregation area.** "Segregation area" means an area of the facility separate from general population that houses the following inmates individually:

A. inmates in administrative separation;

B. inmates requiring either—prehearing detention,—administrative segregation status,—or—in either administrative separation or disciplinary segregation; or

C. lockdown time inmates requiring disciplinary segregation for disciplinary violations. This area is separate from the general population and houses inmates individually.

132. Commenters such as Beltrami County Sheriff Jason Riggs and Jail Administrator Calandra Allen objected to the proposed rule because facility design and available space limits jails like their own from housing inmates separately from the general population.¹³¹

133. In response to comments, the Department's final proposal further revises its proposed language, in relevant part, as follows:

"Segregation area" means an area of the facility separate from general population, or individual cells within general population, that houses the following inmates individually:

134. The Department explained that the change reflected stakeholder feedback and would allow individual cells within general population to qualify as segregation areas when facility design limits other options. It stated that the revisions are related to the Department's objective of safe and secure jail facilities because they preserve the ability of facilities to safely separate incarcerated individuals who present security, medical, mental-health, or safety concerns while still allowing facilities flexibility to operate within their physical limitations.¹³²

135. The modifications addressing the concern related to variability in jail facilities and available space are within the scope of the announced rulemaking and are a logical outgrowth of the notice for hearing and comments submitted in response. Because the new language reasonably addresses the concern by accounting for varying facility design and space limits, the notice of hearing provided fair warning of

¹³¹ See, e.g., Comments of Jason Riggs and Calandra Allen (Apr. 8, 2026).

¹³² Ex. K-4, at 5.

such an outcome and the Department has established the need and reasonableness of these modifications.

B. Part 2911.0200, subp. 68c: Substance Use Disorder Services

136. As originally proposed Minn. R. 2911.0200, subp. 68c, would amend the subpart as follows:

Subp. 68c. **Substance use disorder treatment.** "Substance use disorder treatment" has the meaning given in Minnesota Statutes, section 245G.01, subdivision 24.

137. Commenters such as Beltrami County Sheriff Jason Riggs and Jail Administrator Calandra Allen objected to the proposed rule, contending that a jail is not an appropriate setting for substance use disorder treatment.¹³³

138. Following the hearing, the Department revised its proposed language for this subpart, and now proposes the following:

Subp. 68c. **Substance use disorder treatment services.** "Substance use disorder treatment services" has the meaning given in Minnesota Statutes, section 245G.01,8 subdivision 24 means the assessment of an inmate for a substance use disorder and the inmate's service needs; planning and providing on-site services, interventions, or recovery support services; coordinating care with on-site or external providers; and ongoing reassessment by health care personnel.

139. The Department explained that it narrowed and clarified the language in response to comments from facilities and stakeholders. The Department stated that the revision is related to the Department's objective of safe and secure jail facilities because consistent terminology promotes clearer operational expectations, improves communication between facilities and health-care personnel, and supports safer identification and management of individuals experiencing withdrawal, overdose risk, or substance-use-related medical emergencies.¹³⁴

140. The modifications addressing the concern related to substance use disorder treatment are within the scope of the announced rulemaking and are a logical outgrowth of the notice for hearing and comments submitted in response. Because the new language reasonably addresses the concern by more precisely defining the term to more closely match the Department's objective of safe and secure jail facilities, the notice of hearing provided fair warning of such an outcome and the Department has established the need and reasonableness of these modifications.

¹³³ See, e.g., Comments of Jason Riggs and Calandra Allen (Apr. 8, 2026).

¹³⁴ Ex. K-4, at 5–6.

C. Part 2911.0300: Intended Facility Use and Facility Support Plans

141. Commenter Christopher Thoma suggested that the original draft of this rule part exceeded the Department's statutory authority to adopt rules because it improperly elevated facility policies to be unpromulgated rules subject to Department enforcement.¹³⁵ Thoma maintained his objection after the hearing.¹³⁶

142. The Minnesota Sheriffs Association objected to this rule because the SONAR includes a decision-making grid that is not reflected in the rule, and because it would permit the Department to take drastic action and give facilities no recourse until "great harm for the jail and often on inmates has been inflicted."¹³⁷

143. The Department significantly revised this rule in response to comments.

144. Addressing Thoma's concern, the Department revised the rule to include the following language of limitation:

Subp. 1(E) A facility is not subject to licensing actions solely for failing to follow internal policies that exceed minimum standards set by Minnesota Statutes or rule requirements. A violation of a facility's policy alone does not mean the facility failed to develop and follow the policy.

145. The Department also added a definition of "develop and follow," as follows:

Minn. R. 2911.0200, subp. 28a: "Develop and follow" means, with respect to a policy and procedure as required by Minnesota Statutes or this chapter, that the facility administrator creates the policy, implements the policy through training and appropriate compliance measures, and responds reasonably to apparent violations.

146. The Department explained that the additions clarify that the Department would evaluate and take licensing action with respect to the duly promulgated minimum standards, and not with respect to whether a facility has fully adhered to its own internal policies.¹³⁸

147. The Department proposed revisions to address concerns arising out of the purported authority to find licensing violations and the consequences of being found out of compliance. The revised proposed rule provides, in relevant part:

¹³⁵ Ex. I, Comments of Christopher Thoma (Apr. 21, 2026).

¹³⁶ Ex. K-10, Post-hearing Comments of Christopher Thoma (June 15, 2026).

¹³⁷ Ex. I, Comments of the Minnesota Sheriffs Association (Apr. 27, 2026), 725.

¹³⁸ Ex. K-11 at 3.

Subp. 1(D) The commissioner must assess a ~~facility based on~~ facility's compliance or substantial conformity with requirements under this chapter that apply to the facility's classification and other Minnesota Statutes establishing minimum standards and conditions of confinement in accordance with Minnesota Statutes, section 241.021, subdivision 1, paragraph (a). The commissioner's assessment is performed in consideration of the requirements and intent of the applicable laws, rules, or standards. A determination of substantial conformity is not precluded by minor deviations that, individually or collectively, do not affect compliance, safety, performance, or regulatory objectives.

[. . .]

Subp. 4. ~~Corrective action~~ Facility support plans.

A. As used in this part, a facility support plan is a collaborative document developed by the commissioner, after consultation with the facility, that identifies areas for improvement in accordance with the following procedures. Implementation of a facility support plan under this part does not automatically result in a determination of nonconformance and licensing action under Minnesota Statutes, section 241.021, subdivisions 1a to 1c. A facility support plan is not a licensing action as defined in this subpart.

148. Proactive identification and correction of deficiencies improve facility safety and operational compliance.¹³⁹

149. Proposed revisions to subpart 1(D) are needed because the Department must clearly identify the statutory standards it uses when evaluating whether a facility substantially conforms to minimum standards or is making “satisfactory progress toward substantial conformity” under Minnesota Statutes, section 241.021, subdivision 1(a).

150. The proposed facility-support-plan language in subpart 4 is needed because the Department requires a structured mechanism to identify and address operational deficiencies before conditions rise to the level of formal licensing sanctions set by statute.

151. The revisions to this section are reasonable because they align rule language directly with the statutory licensing framework enacted by the Legislature and clarify the standards facilities must meet during inspections. The revisions are rationally related to the Department’s objective of safe and secure jail facilities because clearer inspection and licensing standards improve consistency, accountability, and statewide understanding of minimum operational expectations.

152. The modifications to Part 2911.0300 are within the scope of the announced rulemaking and are a logical outgrowth of the notice for hearing and

¹³⁹ SONAR at 275.

comments submitted in response. Because the new language addresses concerns raised in comments by limiting the Department to act within its regulatory authority and more clearly articulate what is expected of jail facilities, the notice of hearing provided fair warning of such an outcome and the Department has established the need and reasonableness of these modifications.

D. Part 2911.0900: Staffing Requirements

153. The initially published draft of Minn. R. 2911.0900 provided that a facility administrator must develop and follow a written staffing plan, and that the Commissioner of Corrections would review and either approve or disapprove the staffing plan.

154. Commenter Christopher Thoma stated that a Sheriff's staffing plans should remain a local management decision.¹⁴⁰

155. The Department agreed that staffing plans are the business of jail administrators and their county boards, so long as the Department is confident that all the duties required to operate a jail facility are considered when putting together the staffing plan. It revised part 2911.0900 to eliminate the Commissioner's review and approval of the staffing plan to instead provide for Commissioner review of the comprehensive staffing analyses that are foundational to creating staffing plans.

156. The Department explained that the revision provides jails with flexibility while maintaining comprehensive staffing analysis requirements covering all operational duties and responsibilities necessary for running a jail facility safely and securely.

157. The modifications addressing Thoma's concerns are within the scope of the announced rulemaking and are a logical outgrowth of the notice for hearing and comments submitted in response. Because the new language addresses Thoma's concern regarding local control and responsibility for staffing plans while still ensuring that the foundations of those staffing plans will address a jail's responsibilities and duties, the Department has established the need and reasonableness of these modifications.

E. Parts 2911.1000–.1600: Training

158. Proposed part 2911.1200, parts 1 and 3 define "minimal inmate contact," and would require staff with minimal, regular, or daily inmate contact to receive 16 hours of annual training.

159. Commenters such as Beltrami County Sheriff Jason Riggs and Jail Administrator Calandra Allen objected to the proposed rule because current staff already participate in quarterly emergency preparedness training, including but not

¹⁴⁰ Ex. I, Comments of Christopher Thoma (Apr. 21, 2026).

limited to fire response, evacuation procedures, man-down scenarios, response to resistance, and PREA compliance. They urged “role-appropriate” training.¹⁴¹

160. The 16-hour requirement for support staff relocates the same requirement from subparts 1 and 2 in the existing rule part 2911.1200. As such it has already been established as needed and reasonable and the Department is not required to re-justify it.

161. Proposed Minn. R. 2911.1300, subp. 2, describes required training before custody staff receives an independent assignment.

162. The subpart required, among other requirements, training on opioid emergency procedures, as follows:

(3) training on opioid emergency procedures that may include the steps under the SAMHSA Opioid Overdose Prevention Toolkit, which is incorporated by reference under part 2911.0210;

163. Several commenters addressed the Department's proposed opioid-related training requirements. For example, Beltrami County Sheriff Jason Riggs and Jail Administrator Calandra Allen objected to permissive language allowing, but not requiring, training to include SAMHSA Opioid Overdose Prevention Toolkit steps. Other commenters argued that the Department should require training for opioid antagonists and require facilities to make opioid antagonists available.¹⁴²

164. The Department revised the proposed item, as follows:

~~(3) training on opioid emergency procedures that may include the steps under the SAMHSA Opioid Overdose Prevention Toolkit, which is incorporated by reference under part 2911.0210;~~

165. Minimum standards concerning opioid overdose emergency procedure are required by statute.¹⁴³

166. The Department explained that it would not require jails to make opioid antagonists available because the Legislature's requirement that certain institutions provide access does not expressly extend to county jails. It also explained that it found that most jails already maintain a supply of opioid antagonists.¹⁴⁴

167. The Department explained that training is justified because there is a high presence of people with substance-use disorders and people who face overdose risk in jails.¹⁴⁵ The Department explained its revision to clarify that it would not require facilities

¹⁴¹ See, e.g., Ex. I, Comments of Jason Riggs and Calandra Allen (Apr. 8, 2026), at 6–7.

¹⁴² See, e.g., Ex. K-7 (Hearing Tr.) at 35–38.

¹⁴³ SONAR at 339; Minn. Stat. § 241.021, subd. 1(a)(10).

¹⁴⁴ Ex. K-8 at 17.

¹⁴⁵ SONAR at 339; Ex. K-8 at 17 (citing the MOUD in Jails Workgroup Interim Report). MOUD means “medication for opioid use disorder.”

to use any single opioid-emergency curriculum or training provider.¹⁴⁶ The Department reasoned that requiring training where jails have opioid antagonists available, but not requiring them to do so reflects a reasonable approach.

168. The Department's revision to the proposed item is within the scope of the announced rulemaking and is a logical outgrowth of the notice for hearing and comments submitted in response. Because the revised proposed language is supported by the record and rationally related to the Department's objective of safe and secure jail facilities through properly trained staff, timely screening, effective withdrawal management, continuity of care, and overdose prevention to reduce the risk of death, suicide, overdose, medical emergencies, and unsafe behavioral crises within correctional settings, the Department has established the need and reasonableness of these modifications.

169. Proposed Minn. R. 2911.1300, subp. 4, would provide:

After the first year of employment and every year thereafter, custody staff must receive at least 20 hours of annual training, which must include at least the following topics:

A. well-being checks;

B. admissions;

C. response to resistance; and

D. medical training and training on suicide risk and prevention under subpart 2, items O and P, except CPR if the regular training complies with the requirements under subpart 3.

170. Stearns County Sheriff Steve Soyka challenged the proposed change from 16 to 20 hours of annual training for custody staff.¹⁴⁷ He questioned how the structure of annual training and number of training hours was determined.

171. Several commenters, such as Morrison County Jail Administrator Lieutenant Tony Athman,¹⁴⁸ Cass County Sheriff Bryan Welk, and Jail Administrator Lieutenant Chris Thompson,¹⁴⁹ objected to the requirement for correctional officers to receive 60 hours of training every three years. These commenters observed that a licensed police officer must receive only 48 hours of training every three years. Martin County Jail Administrator Tanya Rathman asserted that increased annual training does

¹⁴⁶ Ex. K-4, at 12.

¹⁴⁷ Ex. I, Comments of Steve Soyka. Minn. R. 2911.1300.

¹⁴⁸ Ex. I, Comments of Tony Athman (Apr. 30, 2026).

¹⁴⁹ Joint Comments of Bryan Welk and Lieutenant Chris Thompson (Apr. 30, 2026).

not necessarily result in improved performance.¹⁵⁰ Many commenters also objected on the basis of cost.¹⁵¹

172. In its SONAR, the Department stated that comprehensive training is an important measure to reduce the amount and costs of litigation which have resulted from incompletely trained staff.¹⁵² “Much of the rule’s original and subsequently amended training requirements stem from the ACA,¹⁵³ including requirements for staff orientation, annual training, essential training before independent assignment, and in-service training.”¹⁵⁴

173. The proposed rule would require custody staff to receive annual training in four subject areas: well-being checks, admissions, response to resistance, and medical training and training on suicide risk prevention.¹⁵⁵

174. The Department explained that well-being checks are the most-cited rule violation in the Department’s inspection reports. Noncompliant well-being checks endanger the health, safety and rights of incarcerated people.¹⁵⁶

175. The Department explained that training on admissions is justified because of the importance of adequately screening a person for health-care concerns upon admission.

176. The Department reasoned that “the required hours of annual training should reflect the extensive job duties of custody staff—and 16 hours is insufficient given the rule revisions. Proposing 20 hours and requiring training on at least four topics is critical to ensuring that custody staff are well-trained to respond to health and security events.”¹⁵⁷ The Department also noted that the increase to 20 was less than originally proposed (24) and less than those required for Department correctional officers (40).

177. Department’s specification of four topics for custody staff annual training is rationally related to the Department’s authority to establish minimum standards relating to the security, safety, health, treatment, and discipline of persons confined or incarcerated in Minnesota’s jails. The revisions are rationally related to the Department’s objective of safe and secure jail facilities because properly trained staff are better equipped to safely supervise incarcerated individuals, respond to emergencies, identify mental-health or withdrawal concerns, and prevent suicide, overdose, or serious injury.

¹⁵⁰ Comments of Tanya Rathman (Apr. 29, 2026).

¹⁵¹ See, e.g., Comments of Tanya Rathman; Comments of James Brown (Apr. 23, 2026).

¹⁵² SONAR at 90. Internal quotation omitted.

¹⁵³ American Correctional Association, *Performance-Based Standards and Expected Practices for Adult Local Detention Facilities*, in cooperation with the Commissioner for Accreditation on Corrections (5th. ed. May 2023).

¹⁵⁴ SONAR at 336.

¹⁵⁵ Minn. R. 2911.1300, subp. 4.

¹⁵⁶ SONAR at 338.

¹⁵⁷ *Id.* at 341.

178. The Department's rationale for increasing the number of hours of annual training from 16 to 20 is thin. The Department newly specifies a minimum of four topic areas that annual training must cover; however, the SONAR does not explain how the Department determined that 16 hours annually for custody staff is inadequate.

179. The Department will require support staff to complete 16 hours of annual training. It may be reasonable for custody staff to receive more annual training than support staff.

180. The Department's proposed modification increasing the hours of annual training required appears to be more an expression of its will than its judgment. The Department may have rationally reached the conclusion that 16 hours is inadequate to cover the required subject matter. But the Department did not show its work. It articulated no substantive justification for requiring 20 hours, specifically. It cited no authority, and provided no supporting evidence beyond its conclusory statement that 16 hours is insufficient "given the rule revisions."

181. Additionally, the proposed amendment to subpart 4 concerning annual training for custody staff contains either an ambiguity or an irrationality: it requires annual medical and suicide risk and prevention training "except CPR if the regular training complies with the requirements under subpart 3." However, it is ambiguous whether the exclusion for CPR training reduces the number of hours of annual training required, or simply eliminates the subject from the list of annual training subjects. Even assuming that it is clear that the CPR exclusion only excepts it from the list of required annual training without reducing the number of hours of annual training, such an interpretation calls into question the rational basis for still requiring 20 hours of annual training in circumstances where the condition is satisfied and CPR training is excluded.

182. For these reasons, proposed rule part 2911.1300, subp. 4, must be **DISAPPROVED**.

F. Part 2911.2525, subp. 1: Admissions

183. Part 2911.2525 requires jail administrators to develop and follow a policy and procedure on admission, and describes the minimum requirements of any such policy and procedure.

184. Commenters such as Beltrami County Sheriff Jason Riggs and Jail Administrator Calandra Allen objected to the rule part, generally, because it is "an exhaustive list of procedures as to what admissions should look like".¹⁵⁸ They argued that the responsibility for developing policies and procedures should be a local one, and that a "one-size-fits-all" approach "undermines local authority and fails to account for the distinct needs of individual facilities."¹⁵⁹

¹⁵⁸ See, e.g., Comments of Jason Riggs and Calandra Allen (Apr. 8, 2026), at 8.

¹⁵⁹ Comments of Jason Riggs and Calandra Allen (Apr. 8, 2026), at 8.

185. They also objected to specific time limits within the rule, arguing that “[i]mposing strict timelines on the admissions or intake process fails to account for the numerous unpredictable factors involved.” They also observed that the amount of information that must be collected is significant, and that when multiple individuals are arrested in a short timeframe the workload could strain staff and operations, resulting in exceeding the rule’s timeline.¹⁶⁰

186. The Department explained that its proposed admissions requirements are needed because newly admitted individuals frequently enter jail with serious medical, mental-health, withdrawal, or suicide-related risks.¹⁶¹ A substantial percentage of incarcerated individuals experience substance-use disorders, mental illness, or co-occurring behavioral-health conditions.¹⁶²

187. The Department explained that its proposed admissions requirements are reasonable because the rule only requires facilities to make initial attempts to complete admissions procedures within two hours and recognizes that facilities may encounter uncooperative individuals, emergency conditions, or operational surges.¹⁶³

188. The Department supported its time limits by citing a 2024 jail survey where it found that nearly all jails can meet the existing and proposed admissions requirements within two hours (when required by rule). It concluded based on the survey data that it is reasonable to require initial attempts to complete medical screenings within 2 hours and initial attempts to verify medications within 24 hours. The proposed rule also provides exceptions for the medical screenings and medication verification, as detailed in parts 2911.2525, subp. 6 and 2911.6800.¹⁶⁴

189. Commenter Michelle Gross advocated for the Department to require a jail to determine if an admittee is subject to a Jarvis order.¹⁶⁵

190. The Department declined to adopt the recommendation, citing extensive prehearing and hearing comments regarding the cumulative burden associated with newly proposed intake requirements.

191. Proposed rule part 2911.2560 is rationally related to the Department’s objective of safe and secure jail facilities because timely intake screening allows staff to identify medical emergencies, withdrawal symptoms, suicide risk, and safety concerns early in custody when individuals are most vulnerable. Because the proposed admissions-related requirements are needed, reasonable, and rationally related to the Department’s objective, they are approved.

¹⁶⁰ Comments of Jason Riggs and Calandra Allen (Apr. 8, 2026), at 8–9.

¹⁶¹ Ex. K-4, at 14–15.

¹⁶² SONAR at 346.

¹⁶³ Ex. K-4, at 15.

¹⁶⁴ SONAR at 347.

¹⁶⁵ Hearing Tr., 32.

G. Part 2911.2550: Releases

192. Several commenters, such as Beltrami County Sheriff Jason Riggs and Jail Administrator Calandra Allen, objected to the requirement that upon release an individual be provided a list of local, state, and federal resources. They argued that such information is easily obtained online, and that the requirement to physically distribute written material is outdated. Commenters asserted that maintaining and providing such a list is onerous and costly and recommended that a statewide resource hub be created.

193. The Department reasoned that local jails are best positioned to maintain accurate, up-to-date resource lists specific to their communities. This responsibility is more appropriately maintained at the county-level to ensure it includes resources that individual jurisdictions can update regularly. It stated that it would be open to partnering with counties and other stakeholders to develop a different method of ensuring released individuals receive the information.¹⁶⁶

194. The requirement to provide a list of resources is rationally related to the Department's objective of safe and secure jail facilities because continuity of medication, mental-health resources, and release information reduce risks associated with reentry, overdose, suicide, and treatment interruption following release from custody.

195. The Department's conclusion that such resource lists are presently best maintained at the local level is reasonable. The record, as it relates to overdose, suicide, and mental health risks supports the need for such a provision.

H. Parts 2911.2790–2880: Administrative Separation, Disciplinary Segregation, and Mental Health Care

196. These provisions underwent significant revisions from the originally proposed rule upon consideration of extensive stakeholder feedback regarding flexibility, operational realities, and the use of behavioral-management terminology.¹⁶⁷

197. The proposed rule limits disciplinary segregation, requires periodic review, and provides safeguards intended to reduce unnecessary restrictive housing. At the same time, the rule preserves flexibility for facilities to establish sanctions that are proportionate to the severity of misconduct while remaining within department-established limits.

198. Several commenters argued that the Department's framework did not provide sufficient flexibility for facilities to develop policies and procedures that appropriately reflect the severity of specific rule violations and allow for proportionate sanctions.

¹⁶⁶ Ex. K-4, at 15.

¹⁶⁷ Ex. K-4, at 16.

199. Commenter Eliot Butay argued that because solitary confinement exceeding 15 days constitutes torture, disciplinary segregation should be capped at 15 days.¹⁶⁸

200. The Department declined to adopt Butay's recommendation, citing 2023 research performed by the Department's Planning and Performance Unit. That research found that violent incidents resulting from institutional discipline appeared to increase both when segregation caps were lowered and when they were later increased, suggesting that segregation limits alone do not determine facility safety outcomes.¹⁶⁹

201. The Department revised the proposed rule to clarify that the required screenings are mental-health screenings further promotes consistent implementation and ensures that facilities understand the purpose of the requirement.

202. To ensure operational feasibility, as well as in recognition of limited mental health resources in certain areas of the state, the Department revised the mental status exam requirements in part 2911.2860 to clarify which staff can complete screenings and how to document if mental health professionals are unavailable to conduct the required mental status exams.

203. The revisions are not substantially different from the published draft because the rule continues to regulate the same subject matter: disciplinary segregation, administrative separation, review procedures, and mental-health oversight for incarcerated people placed in restrictive settings. The addition of the word "mental" merely clarifies the type of screening contemplated by the rule and does not create a new obligation. The revisions remain within the scope of the Notice of Hearing, are a logical outgrowth of stakeholder comments and departmental review, and do not create materially different effects or obligations for regulated facilities.

204. The revisions to these rule parts are rationally related to the Department's objective of safe and secure jail facilities because appropriate segregation practices, periodic review, and health monitoring reduce risks associated with prolonged isolation, self-harm, violence, and deteriorating mental-health conditions.

I. Part 2911.3700: Disaster Plan; Emergencies or Unusual Occurrences

205. Part 2911.3700 establishes planning and reporting requirements relating to disasters, emergencies, and unusual occurrences.

1. Subpart 5, as amended, provides that:

A facility shall have administrator must develop and follow a written policy and procedure that specifies actions to be taken in the event of if an inmate dies at the facility or if the facility administrator is made aware of an inmate's death outside the facility after removal from the facility for medical care stemming from

¹⁶⁸ Hearing Tr. 56–61, Hearing Comments of Elliot Butay.

¹⁶⁹ Ex. K- at 22.

an incident or need for medical care at the facility and that is consistent with Minnesota Statutes, section 241.021, subdivision 8.

206. Commenter Christopher Thoma argued that sheriffs' law-enforcement exemption for accessing health records ends once a person is no longer in custody, including for reporting deaths that happen after release. He urged that part 2911.3700 should explicitly state that the reporting and formal review of deaths applies exclusively to individuals who pass away while in the active legal and physical custody of the facility.

207. The Department declined to make the change recommended by Thoma, citing Minn. Stat. § 241.021, subd. 8.

208. Minn. Stat. § 241.021, subd. 8, requires that a correctional facility administrator review the circumstances of the death of an individual committed to the custody of the facility within 90 days "regardless of whether the death occurred at the facility or after removal from the facility for medical care stemming from an incident or need for medical care at the correctional facility." The facility administrator must also provide notice to the Commissioner of Corrections via the Department of Corrections detention information system that the correctional facility has conducted a review and identify any recommendations for changes in policy, procedure, or training that will be implemented.

209. Because Minn. Stat. § 241.021, subd. 8, requires a facility administrator to notify the Commissioner of Corrections of reviews performed upon the death of an individual committed to the custody of the facility "regardless of whether the death occurred at the facility or after removal from the facility for medical care stemming from an incident or need for medical care at the correctional facility," the Department has shown that its revisions to Minn. R. 2911.3700, subp 5, are reasonable.

210. The infectious-disease reporting requirements in subpart 4, item B(13) are needed because correctional facilities present heightened risks for communicable-disease spread among incarcerated individuals and facility staff.

211. The requirements are reasonable because the Department narrowed reporting obligations to diseases designated as notifiable by the Minnesota Department of Health rather than broader national disease lists. These revisions also clarified that notification aligns with statutory tuberculosis testing requirements, meaning it is only necessary if the testing cannot be completed within the statutorily defined timeframe.

212. The serious-injury reporting revisions in subpart 4, item B(6) are needed because facilities and inspectors require clear operational standards regarding which injuries constitute reportable incidents.

213. The revisions are reasonable because the Department agreed to revise confusing language and clarified that reportable injuries are those requiring hospitalization or medical care beyond what can be provided within the facility.

214. The requirements are rationally related to the Department's objective of safe and secure jail facilities because coordinated infectious-disease reporting supports public-health monitoring, outbreak prevention, and facility safety.

215. Several commenters objected to proposed revisions relating to critical incident debriefing requirements.

216. These proposed revisions to the critical incident debriefing requirements are needed because traumatic incidents in jails can affect staff well-being, operational readiness, and facility safety. The Legislature specifically directed the Department to adopt minimum standards regarding critical incident debriefings.¹⁷⁰

217. Overall, the Department has established that proposed part 2911.3700 is rationally connected to its objective of safe and secure jail facilities by promoting staff wellness, improving emergency-response practices, and helping facilities maintain safe and effective operations following traumatic events.

J. Parts 2911.3800–4600: Diet and Food-Service Management

218. Multiple commenters objected to portions of these rules, asserting that they are too prescriptive and rely too heavily on external standards.

219. In response to public comments, the Department revised the proposed language in the May 22, 2026 draft to clarify that menu reviews conducted by licensed dietitians or nutritionists are informed by the most recent nationally adopted Dietary Guidelines for Americans, rather than requiring strict adherence. The revisions also updated food-service terminology, added plant-based protein as a high-quality protein option, and clarified that religious diets are based on sincerely held religious beliefs consistent with federal law.

220. The Department's proposed revisions to these parts are needed because adequate nutrition, safe food handling, and appropriate dietary accommodations are essential components of maintaining the health, safety, and orderly operation of jail facilities.

221. The revisions made after initial publication of the proposed rule are within the scope of the matter announced in the notice of hearing and are in character with the issues raised in that notice; that the differences are a logical outgrowth of the contents of the notice of hearing and the comments submitted in response to the notice; and, the notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

¹⁷⁰ Minn. Stat. § 241.021, subd. 1(a)(9).

K. Part 2911.5010–5025: Well-Being Checks

222. Many commenters were critical of these provisions in light of staffing impacts, documentation requirements, staggered checks, and the operational feasibility of well-being checks requiring a “stop” rather than some other guiding language.¹⁷¹

223. Upon consideration of public comments, the Department revised the language of the rule to clarify staggered checks, permit flexibility for unoccupied cells, allow documentation of missed checks during emergencies, and establish reasonable supervisor review timelines that account for the staffing levels of smaller facilities without supervisory staff on every shift.

224. The proposed 15-minute well-being-check requirements are needed because individuals newly admitted to jail or awaiting medical screening may be at elevated risk of withdrawal complications, suicide, overdose, or unpredictable behavior. Fifteen-minute checks align with National Institute of Corrections and National Commission on Correctional Health Care recommendations and a jail’s duty to prevent suicide and life-threatening withdrawals.

225. In response to comments, the Department narrowed the criteria for people who have not completed medical and mental health screening, to only those for whom there is no information shared by the admitting or transporting officers about the individual’s substance use or state of mind.

226. The inability of jails to always complete medical screens means that the 15-minute check is needed to help alleviate the health and safety risks a screening would otherwise address.

227. These requirements are reasonable because many facilities already perform more-frequent checks under existing operational practices, and the proposed rule allows health-care personnel to reduce the frequency of checks and permits facility staff to discontinue them once an individual’s screening is complete or health care personnel have reviewed the individual against the other criteria requiring more frequent checks: suicide watch, signs or symptoms of mental deterioration or self-harm; or signs or symptoms of withdrawal from substance use.

228. Proposed rule parts 2911.5010–5025 are rationally related to the Department’s objective of safe and secure jail facilities because well-being checks are essential for identifying signs of life, medical distress, suicide attempts, overdose symptoms, contraband activity, and other emergent safety concerns.

229. The revisions made after initial publication of the proposed rule are within the scope of the matter announced in the notice of hearing and are in character with the issues raised in that notice; that the differences are a logical outgrowth of the contents of the notice of hearing and the comments submitted in response to the notice; and, the

¹⁷¹ See, e.g., Ex. I, Comments of the Minnesota Sheriff’s Association, 28; Comments of Nobles County Sheriff Ryan Kruger and Jail Administrator Dan Bosman (Apr 21, 2026).

notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

L. Parts 2911.5800–5820: Health Care, Withdrawal Management, and Substance-Use Disorder Treatment

230. Many commenters expressed concern about these rule parts, highlighting withdrawal management, medication continuity, telehealth requirements, staffing limitations, and the scope of substance-use disorder treatment obligations.

231. The proposed health-care and withdrawal-management revisions are needed because Minnesota jails increasingly house individuals with serious medical conditions, mental illness, substance-use disorders, and opioid-withdrawal risks. The SONAR explains that jails are managing increasingly complex behavioral-health populations despite limited resources.¹⁷²

232. Eighty-two percent of jails report more than thirty percent of their population struggles with substance abuse. It is estimated that more than 40,000 people admitted to and released from Minnesota jails each year have substance abuse issues.¹⁷³

233. MOUD in Jails Workgroup Interim Report¹⁷⁴ further supports the Department's conclusions regarding the importance of evidence-based withdrawal management, medication-assisted treatment, continuity of care, discharge planning, staff training, and overdose prevention efforts in correctional settings.¹⁷⁵

234. Upon considering public comment, the Department revised the proposed rule to clarify that trained custody staff may conduct portions of screening procedures while deferring medical decision-making to health-care personnel. The Department also revised ambiguous references to withdrawal-management providers and clarified continuity-of-care expectations.

235. The Department also revised the rule to take recent legislative changes into consideration demonstrating legislative support for continuity of prescribed medications and clarify the circumstances under which licensed health-care professionals may appropriately modify or discontinue medications during incarceration.

236. Commenter Christopher Thoma contended that rule part 2911.5800, subp. 1a, by purporting to regulate telehealth services but only “if a facility provides telehealth services,” the Department is not articulating a minimum standard.¹⁷⁶ Thoma

¹⁷² SONAR at 192–201.

¹⁷³ *Id.* at 262; Ex. K-8, 26.

¹⁷⁴ Minnesota Office of Addiction and Recovery, MOUD in Jails Workgroup, *Interim Report to the Subcabinet on Opioids, Substance Use, and Addiction* (January 2025).

¹⁷⁵ SONAR at 213; Ex. K-4, 24.

¹⁷⁶ Ex. I, Comments of Christopher Thoma; Ex. K-10, Post-Hearing Comments of Christopher Thoma (June 15, 2026). See also Hearing Comments of Richard Hodson.

urged that subpart 1a be removed or that the Department articulate telehealth as a minimum standard.

237. The Department reasoned that the Legislature required the Department to include specific guidance pertaining to “a policy regarding the use of telehealth.” Accordingly, the subpart is needed. And because some jails may prefer to exclusively provide in-person health care, the Department regarded its creation of a conditional minimum standard reasonable.

238. The Department satisfied the Legislature’s requirement while reasonably maintaining flexibility for jails to decide whether to provide healthcare via telehealth. This is consistent with the state’s regulatory policy to develop rules and regulatory programs that emphasize maximum flexibility for the regulated party and agency.¹⁷⁷

239. The Department neither exceeds nor flouts its statutory authority to allow flexibility to jails to adopt a practice such as offering telehealth, and to establish a minimum standard that applies when a facility elects to adopt the practice. The Department is within its statutory authority, and it is rationally connected to the Department’s objectives of offering guidance required by the Legislature and of safe and secure jail facilities, to articulate guidance that contemplates jail policies that omit telehealth, and conditionally establishes a minimum standard for telehealth if jail policy is to offer it.

240. The telehealth provisions are needed and reasonable because telehealth involves clinical, technological, and security considerations that differ among facilities. Minimum standards help ensure that if telehealth is delivered, it is done so reliably, that equipment is used and maintained safely, and that staff receive appropriate training.

241. The telehealth provisions are rationally related to the Department’s objective of safe and secure facilities by providing the structure required to comply with statute, promote uniform practices statewide where telehealth is offered, and safeguard both staff and incarcerated individuals during the provision of telehealth services.

242. Overall, proposed rule parts 2911.5800–5820 are rationally related to the Department’s objective of safe and secure jail facilities because timely screening, withdrawal management, continuity of care, and overdose prevention reduce risks of death, suicide, overdose, medical emergencies, and unsafe behavioral crises inside correctional facilities.

243. The revisions made after initial publication of the proposed rule are within the scope of the matter announced in the notice of hearing and are in character with the issues raised in that notice; that the differences are a logical outgrowth of the contents of the notice of hearing and the comments submitted in response to the notice; and, the notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

¹⁷⁷ Minn. Stat. § 14.002.

M. Part 2911.5830: Mental Status Exam and Mental Health Care

244. Several commenters raised concerns about part 2911.5830, citing staffing availability, access to mental-health professionals, operational flexibility, and the ability of smaller facilities to meet mental-health screening expectations.

245. Jails regularly house individuals experiencing mental illness, crisis symptoms, substance use disorders, and behavioral instability that require timely screening, evaluation, and monitoring.¹⁷⁸

246. Upon considering public comments, the Department clarified that facilities retain flexibility in how mental-health care is delivered based on available resources, that custody staff may complete initial screening functions while health care personnel make clinical decisions, and that facilities may document when a mental-status exam cannot be completed. The Department also revised language related to mental-health support after traumatic events by removing standalone requirements under part 2911.5850 and instead incorporating those concepts within the broader mental-health care requirements of part 2911.5830.

247. The proposed revisions to part 2911.5830 reasonably establish minimum standards for mental-health screening, referral, and follow-up, while recognizing operational differences among jail facilities.

248. The proposed revisions are rationally related to the department's objective of safe and secure jail facilities because timely mental-health screening, referral, monitoring, and continuity of care reduce the risk of suicide, self-harm, medical emergencies, and behavioral instability within facilities.

Based on the Findings of Fact, and the rulemaking record, the Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge has authority and jurisdiction to review these rules under Minn. Stat. §§ 14.14, .15, .50 (2026), and Minn. R. 1400.2100.

2. The Department satisfied the requirements under Minn. Stat. § 14.14.

3. The Department demonstrated it has statutory authority to adopt the proposed rules.

4. The Department demonstrated that it satisfied the requirements of Minn. Stat. §§ 14.05, subd. 1, 14.50(i), (ii).

5. The Department's SONAR complied with Minn. Stat. § 14.131, Minn. R. 1400.2070.

¹⁷⁸ SONAR at 215.

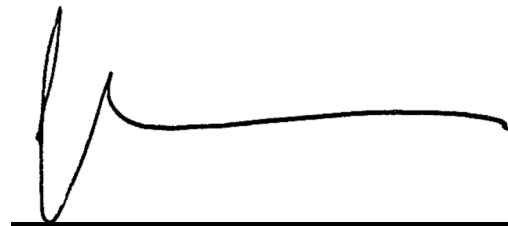
6. The proposed rules should be **APPROVED**, with the exception of proposed Minn. R. 2911.1300, subp. 4, which should be **DISAPPROVED**.

Based upon the above Conclusions, the Judge makes the following:

RECOMMENDATION

The Judge recommends that proposed rule part Minn. R. 2911.1300, subp. 4, be **DISAPPROVED**.

Dated: August 24, 2026


CHRISTA L. MOSENG
Judge

Reported: Kirby Kennedy & Associates

NOTICE

The Department must make this Report available for review by anyone who wishes to review it for at least five working days before it may take any further action to adopt final rules or to modify or withdraw the proposed rules. If the Department makes changes in the rules, it must submit the rules, along with the complete hearing record, to the Chief Administrative Law Judge for a review of those changes before it may adopt the rules in final form.

Because the Administrative Law Judge has determined that the proposed rules are defective in certain respects, state law requires that this Report be submitted to the Chief Administrative Law Judge for her approval. If the Chief Administrative Law Judge approves the adverse findings contained in this Report, she will advise the Department of actions that will correct the defects, and the Department may not adopt the rules until the Chief Administrative Law Judge determines that the defects have been corrected.

However, if the Chief Administrative Law Judge identifies defects that relate to the issues of need or reasonableness, the Department may either adopt the actions suggested by the Chief Administrative Law Judge to cure the defects or, in the alternative, submit the proposed rules to the Legislative Coordinating Commission for the Commission's advice and comment. If the Department makes a submission to the Commission, it may not adopt the rules until it has received and considered the advice of the Commission. However, the Department is not required to wait for the Commission's advice for more than 60 days after the Commission has received the Department's submission.

If the Department elects to adopt the actions suggested by the Chief Administrative Law Judge and make no other changes and the Chief Administrative Law Judge determines that the defects have been corrected, it may proceed to adopt the rules. If the Department makes changes in the rules other than those suggested by the Administrative Law Judge and the Chief Administrative Law Judge, it must submit copies of the rules showing its changes, the rules as initially proposed, and the proposed order adopting the rules to the Chief Administrative Law Judge for a review of those changes before it may adopt the rules in final form.

After adopting the final version of the rules, the Department must submit them to the Revisor of Statutes for a review of their form. If the Revisor of Statutes approves the form of the rules, the Revisor will submit certified copies to the Administrative Law Judge, who will then review them and file them with the Secretary of State. When they are filed with the Secretary of State, the Administrative Law Judge will notify the Department, and the Department will notify those persons who requested to be informed of their filing.