



Governor's Advisory Council on Opioids, Substance Use, and Addiction

Office of Addiction and Recovery

- Welcome and roll call
- Public comment (approximately 11:20)
- Council time with the Office of Addiction and Recovery
- Break (approximately 12:00)
- DHS Office of Inspector General – Background Studies Reform
- Break (approximately 1:15)
- DOC Inspector General - 2911 Rule Making
- Debrief and adjourn

Observer reminders

If observing remotely

- Stay on mute and off camera except if you are speaking during public comment time.
- Do not use chat or raise your hand to comment on Council discussion.
- If you would like to address the Council, use the **'raise hand'** button during the public comment period and we'll call on you at that time.

If observing in the room

- See the information table for the posted meeting materials.
- If you would like to address the Council, add your name to the public commentor list on the information table. When the formal public comment period is opened wait for the facilitator to call on you.



Open meeting law requires public bodies to **record and maintain votes** of its members.



Formal votes will be held for meeting minutes and formal decisions made by the Advisory Council.



Virtual meetings require a vote by roll call and a quorum (simple majority) is required to vote.

Council member reminders

When participating remotely

- **Please be on video**, if possible, to help with overall engagement.
- Ensure your **name** is reflected under your WebEx picture.
- **Mute** when not speaking.
- Use the **'raise hand'** button when you would like to speak.
- Do not post comments related to Council discussion in chat.

When participating in person

- **Raise your hand** when you would like to speak, and Stacy or Beth will cue you.
- **Share your name** before speaking.

Roll call and introductions

- Share your name
- Affiliation or background you would care to share

Approval of meeting minutes

Approval of June 2024, meeting minutes will be taken by roll call.

Public comment opportunity

- Try to limit comments to two minutes so others may speak.
- Facilitator will help you mind the time.
- You are also welcome to communicate with Jeremy Drucker, Addiction and Recovery Director Jeremy.drucker@state.mn.us

Council time with the Office of Addiction and Recovery

Welcome and updates from Jeremy Drucker

- Welcome Minnesota Interagency Council on Homelessness Implementation Consultants
- MOUD in Jails Workgroup
- 1115 Reentry Waiver
- Naloxone Saturation Strategy
- Fiscal mapping
- Unity Dinner
- Upcoming engagement
- Preview of 2025 legislative session





DHS' Statewide Background Study System

Dawn Davis | Deputy Inspector General | Background Studies Division
Office of Inspector General

DHS Background Studies

General Information

Appeals, Reconsiderations, and Data Overview

Federal Programs – Background Study Requirements

Summary of Task Force recommendations

DHS Background Studies

Helps protect people served by programs for which studies are conducted while ensuring that qualified individuals can secure employment and provide services needed by their communities.

- **DHS Background Studies values**

- **Accuracy and thoroughness** in service to children and vulnerable adults
- **Accessibility and transparency** for study subjects, providers, and policymakers
- **Compliance** with federal and state requirements
- **Responsiveness** to state and local needs
- **Continuous improvement** of processes and overall enterprise

General Information

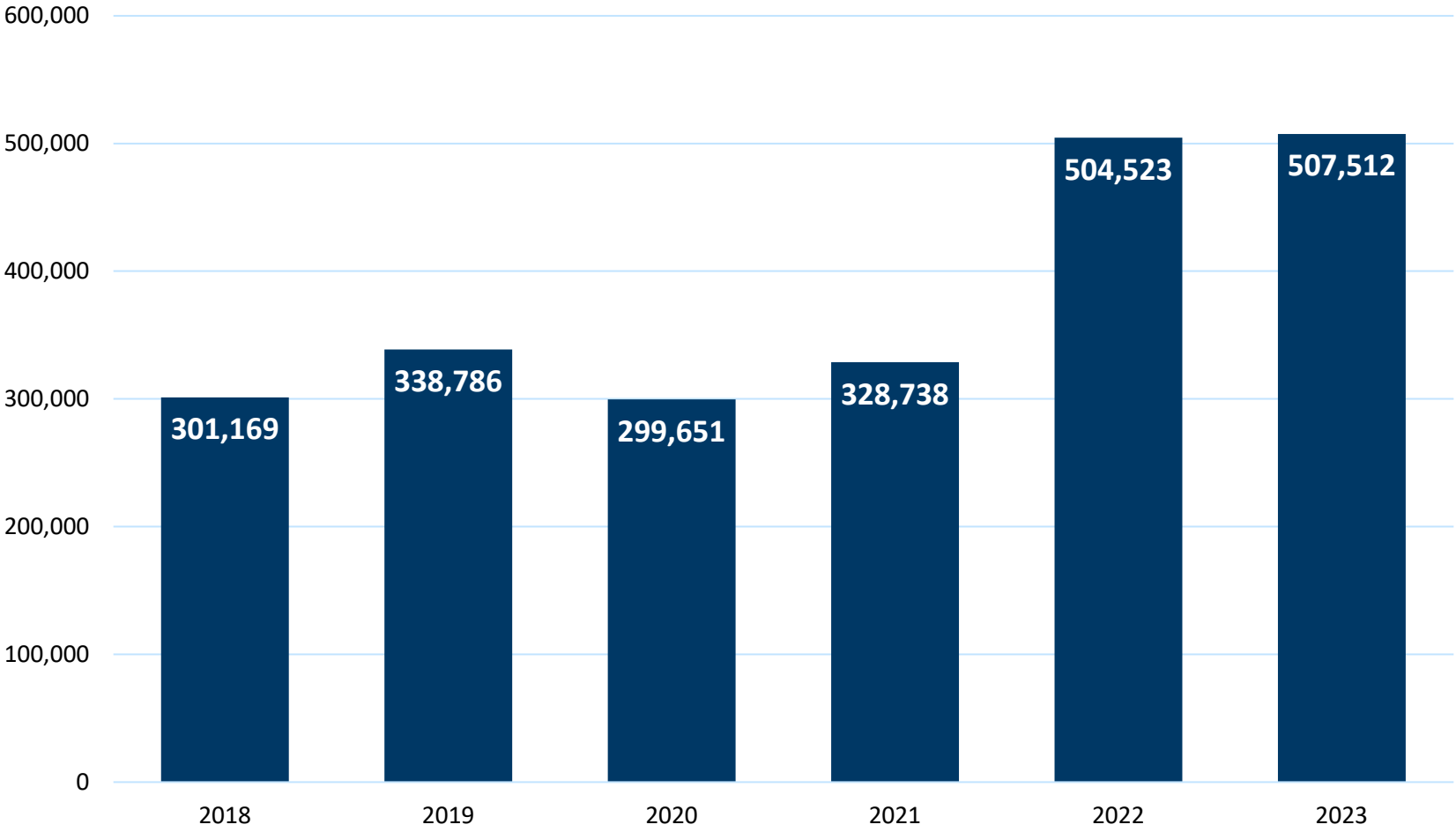
- DHS conducts background studies for over 60 provider types with many having unique requirements
- Background studies are vital pre-screening processes intended to safeguard:
 - children
 - vulnerable adults,
 - individuals receiving health care and human services; and
 - health care and human service provider's workforce
- Background studies determines:
 - Whether a person has committed an act that would disqualify them from being employed or providing services that require a background study
- A background study is more than a check, it requires a thorough review of information from multiple sources

General Information

- 85% of background study applications can be cleared within 24 – 48 hours
- For other applications, DHS staff are required to seek out additional records from other agencies:
 - In-state records from law enforcement or courts
 - Other states, particularly if the study subject has lived outside of Minnesota
 - Some programs require checks for every state the individual has lived within the past 5 years
- DHS does not have influence or control over records requested from other states' registries and repositories

General Information

Distinct Background Studies Applications



Fingerprinting vendor: IDEMIA Identity & Security USA LLC (IDEMIA)

- Selected through a competitive bid process to provide statewide services in 2021
- DHS has a 5-year agreement with IDEMIA; executed March 31, 2021
 - Performance-based contract
 - Contract requires annual review/renewal to address and resolve performance issues
- IDEMIA contracts with partner sites (IdentoGO) to provide fingerprinting and photo services
 - Sites must be located within 35-miles of study subject's home or place of employment

- All study subjects have the right to appeal for reconsideration
- Appeals occur when:
 - Information used to determine disqualification is incorrect and/or,
 - Does not pose a risk of harm to people receiving services.
- If the disqualification is “set aside,” the individual is allowed to work.

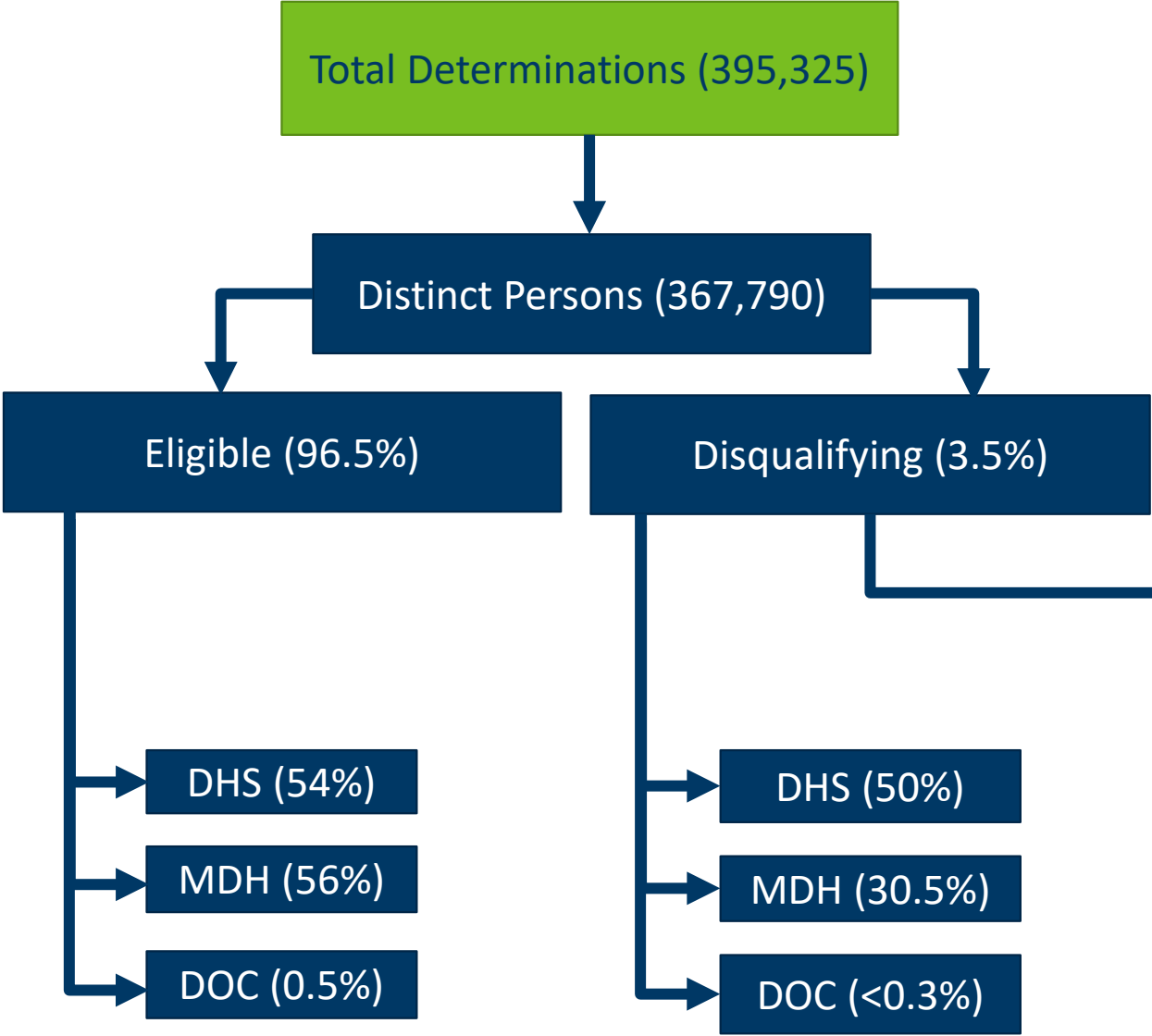
Reconsiderations

- OIG -Background Studies Legal team completes reconsiderations for:
 - Facilities or programs - licensed, certified, or regulated by DHS
 - Programs - certified by the Minnesota Department of Transportation (MnDOT)
- Minnesota Department of Health (MDH) completes reconsiderations for facilities or programs licensed/regulated by MDH
- Minnesota Department of Corrections (DOC) completes reconsiderations for programs - licensed/regulated by DOC

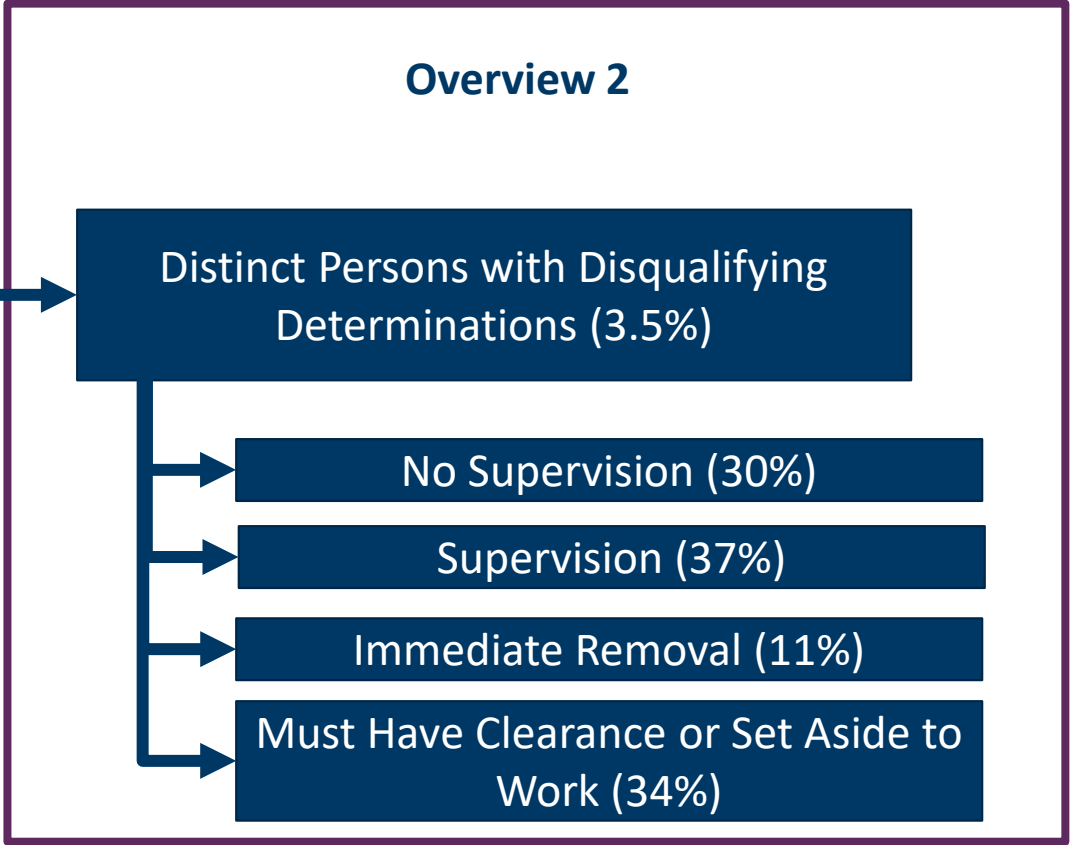
Data Overviews 1 and 2 (Completed)

Background Studies

Overview 1



Overview 2



Programs with federal background study requirements

➤ **Child Care** - 42 USC §9858f

- Enhances some 245C disqualifications from time-limited to permanent

➤ **Child Foster Care and Adoption** - 42 USC §671(a)(20)(A)

- Requires certain disqualifications and bars
- CFC studies are for the funding and the contact/access to the child
- Adoption studies are for the funding only; district court decides whether to approve adoption

➤ **Head Start** - 45 CFR 1302.90; 42 USC 9858f

- Enhances some 245C disqualifications from time-limited to permanent

Task Force Recommendations

Reform Chapter 245C's use of juvenile evidence in disqualification determinations

Simplify structure of "lookback periods" for making disqualification determinations

Remove disqualifying crimes that do not indicate an unacceptable risk to the health and safety of vulnerable individuals

Standardize when disqualification lookback periods begin

Task Force Recommendations (con't)

Remove Chapter 245C's bar to reconsideration requests from permanently disqualified individuals

Remove the use of the preponderance of the evidence standard to make disqualification determinations;

Undertake additional reforms to increase the efficiency and user-friendliness of the reconsideration process

New standardized timeline for requesting reconsideration

- Beginning July 1, 2024 - all requests for reconsideration of an ineligible study determination will need to be resubmitted within 30 calendar days of receipt of the Notice of Disqualification.

New disqualifications for certain drug-related offenses

- For studies requested on or after August 1, 2024, a new 5-year disqualifications tier for certain drug-related crimes (particularly those related to the possession of a controlled substance) goes into effect.

2025 Ideas for Consideration

Remove the bar to set-aside for any permanent disqualifications that do not require federal law compliance.

Review current disqualification structure to consider if changes should be made to the lookback period or the number of disqualification tiers.

The 2023 Legislature funded the planning portion for the automation of the request for reconsideration process.

The 2024 Legislature could consider funding the implementation portion of the automation for the request for reconsideration project.

2025 Ideas for Consideration

Investment in infrastructure to support greater transparency within the background study process by improving sharing of data with policymakers, stakeholders, and members of the public.

Codification of requirement to provide list of community resources.

Feasibility study - analysis to determine if DHS should seek to become FBI fingerprint channeller.

Thank You!

Break 2



2911 Rule Making

- Department of Corrections - Greg Huska, Inspector General and Ian Lewenstein, Rulemaking manager

Debrief and next steps

- Closing comments from the chair
- Next meeting is **in person** on Tuesday, October 1, 10:00 a.m.– 3:00 p.m.
- Location – Elmer L. Andersen Build, Department of Human Service

DOC Rulemaking

m DEPARTMENT
OF CORRECTIONS



2011 rulemaking

Ian Lewenstein | Rulemaking Manager

Greg Huska | Inspector General

m MINNESOTA



About the Office of Inspector General

What is the OIG?

- Created in 2023 to centralize DOC's internal oversight and compliance entity
 - Audit, inspect, and investigate within DOC
 - Collaborate other state agencies (DHS, MDE, MMB)
 - Regulate and educate licensed facilities
 - MN Rules
- Ombuds for Corrections
 - Separate agency external to DOC with full oversight authority of the DOC.
 - Open communication and deconfliction between OIG & OBFC



Inspection & Enforcement

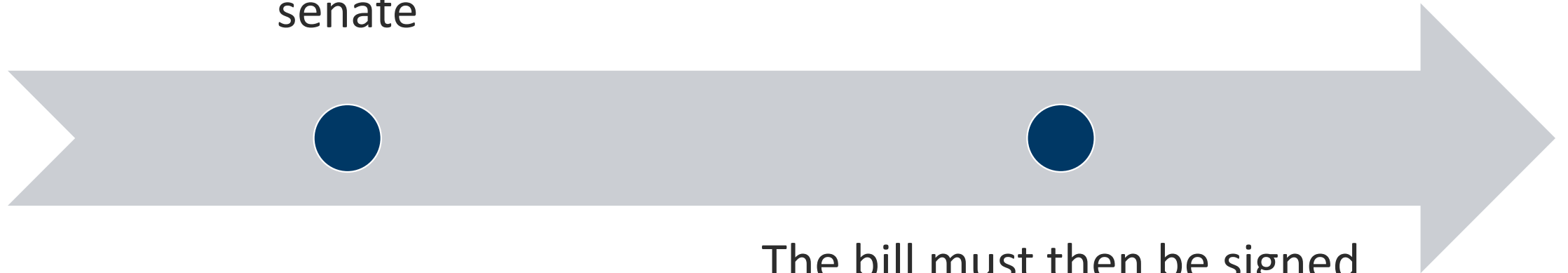
- Inspection, licensure, and rule compliance activity with:
 - County Jails
 - Juvenile correctional facilities
 - Adult community-based residential correctional facilities
 - Holding facilities & municipal lockups
 - Certifications for out-of-state juvenile facilities housing MN youth
- Security audits of DOC facilities
- Sexual offender program certifications (adult & juvenile)
- Review and approve changes to licensed facility (construction, renovation, etc.)
- Engage with DOC business units and stakeholders for rulemaking & policy changes



Rulemaking Versus Legislation

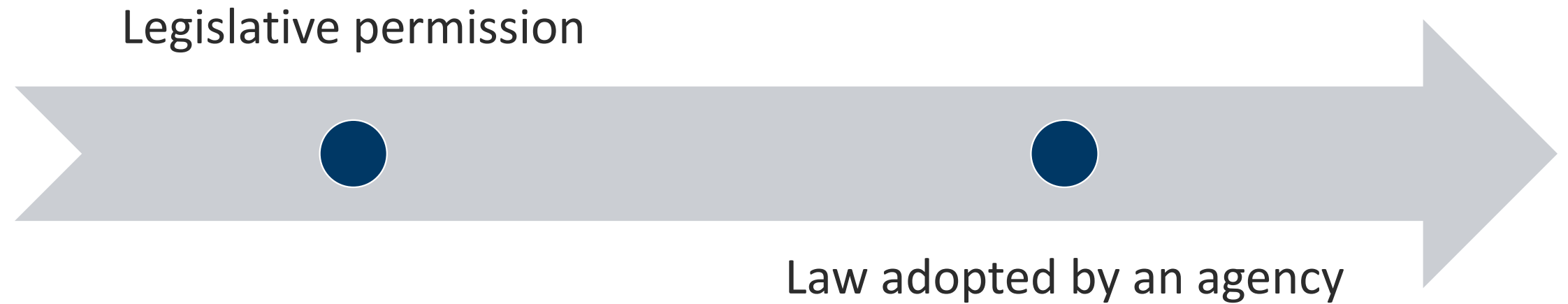
First, what is a bill?

To become law, a bill must be passed by both the house of representatives and the senate



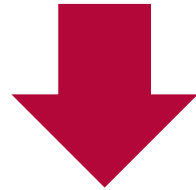
The bill must then be signed by the governor

What is a rule?



Permission is needed

- A state agency needs the legislature's permission to adopt a rule.
- This permission is known as **statutory authority**, and it must be specifically granted.



“The commissioner **shall adopt rules** establishing licensing criteria for secure placement programming for juvenile offenders.”

Sometimes, the legislature is more specific

241.021 LICENSING AND SUPERVISION OF FACILITIES.

Subdivision 1. **Correctional facilities; inspection; licensing.** (a) Except as provided in paragraph (b), the commissioner of corrections shall 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. The commissioner shall 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. These minimum standards shall include but are not limited to specific guidance pertaining to:

- (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;
- (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;
- (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 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.

Sometimes, the legislature is more specific, continued

“The commissioner **shall 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. These minimum standards shall include but are not limited to specific guidance pertaining to:

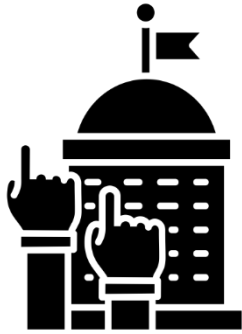
(1) screening, appraisal, assessment, and treatment for persons confined or incarcerated in correctional facilities with mental illness or substance use disorders;

(2) a policy on the involuntary administration of medications; . . .”



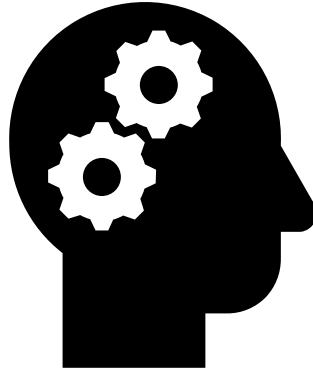
Why Rulemaking?

Why should you care?



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from Noun Project

Rulemaking affects you

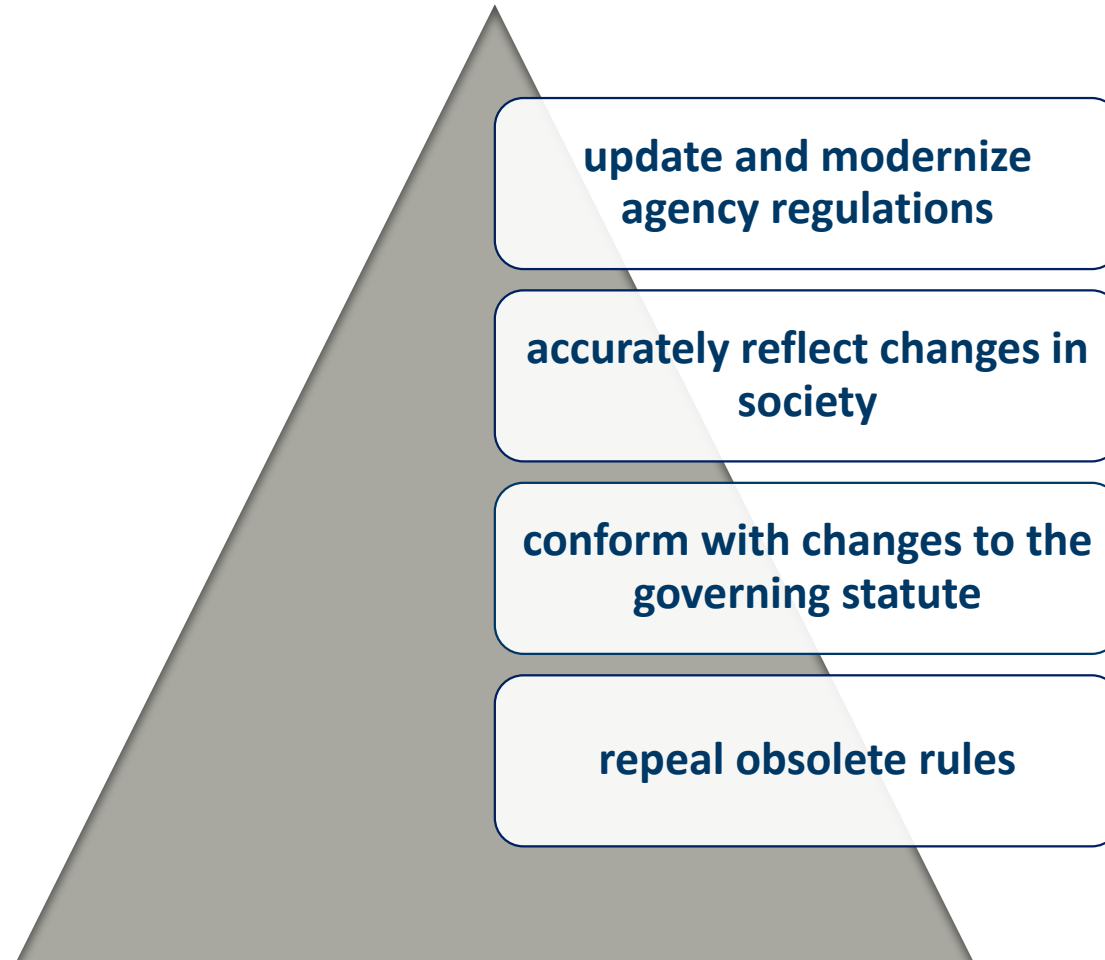


Add your expertise



Hold agencies
accountable

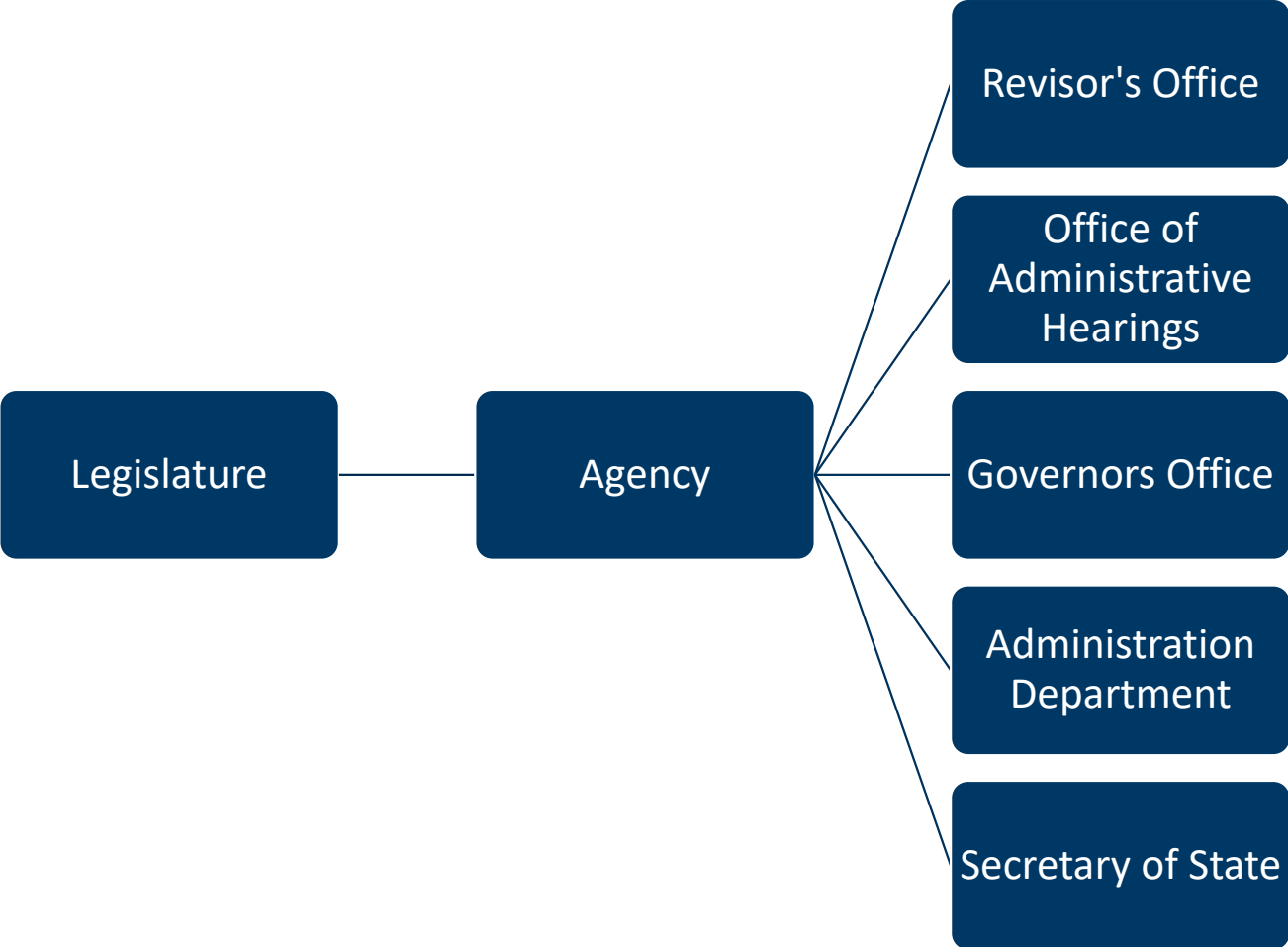
What is rulemaking used for?



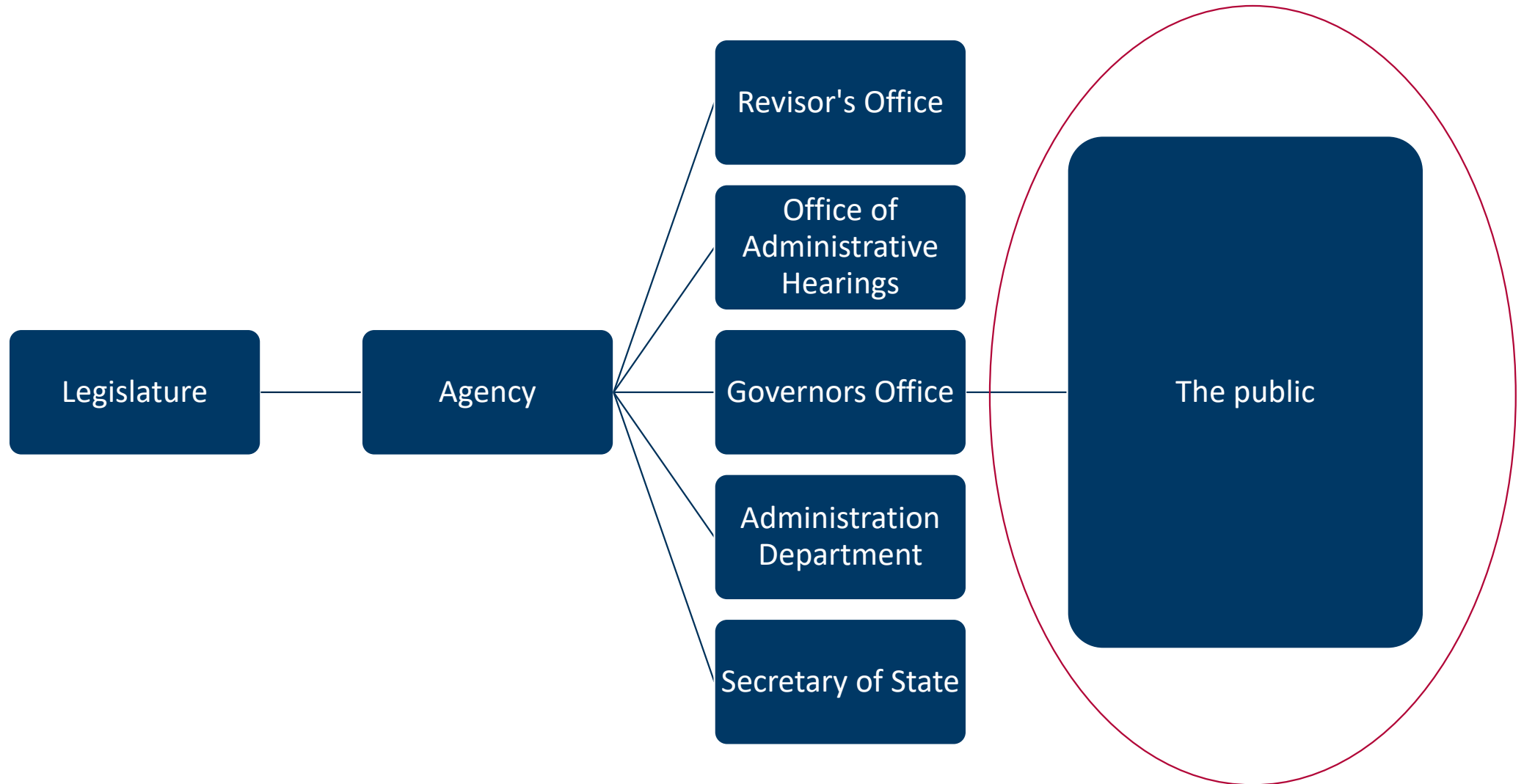


Participating in rulemaking

Who is involved in rulemaking?



Don't forget the public



The agency must publish rule notices in the *State Register*

- Published in print and online
- Can search old and current versions on the revisor's website

Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)



An agency must publish 3 notices



Request for
Comments

Notice of Intent
to Adopt Rules

Notice of
Adoption

Request for Comments

- Informal
- One of the first rulemaking steps



Department of Corrections

REQUEST FOR COMMENTS for Possible Amendments to Rules Relating to Residential Treatment Programs for Adult and Juvenile Sex Offenders; Minnesota Rules, Chapters 2955 and 2965; Revisor's ID Number R-4447

Subject of Rules. The Minnesota Department of Corrections (department) requests comments on the department's possible amendments to its rules on residential treatment programs for adult and juvenile sex offenders. The department's rule amendments will incorporate updated researched-based practices to help program clients reduce their likelihood of reoffending. Updated requirements will help better protect the safety of Minnesotans when clients are reintegrated into the community.

The department also plans to streamline its regulatory requirements by combining both chapters on adult and juvenile clients into one cohesive chapter applicable to all regulated programs. One chapter will alleviate the regulatory burden of having to read two rule chapters, and department staff and other affected parties will benefit from one cohesive rule chapter. Other changes include:

- establishing well-defined, consistent standards to promote the most effective treatment for clients;
- updating definitions and ensuring that they are consistently used; and
- getting rid of jargon and legalese and conforming to plain-language standards for more-effective regulatory compliance.

Drafting the rule

The agency works
on drafting rule
language

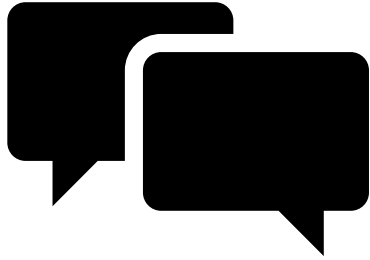


The public will
comment on the
rule language



The revisor's office
puts rule language
into style and form

Collaborating with stakeholders



An agency must diligently work with the public

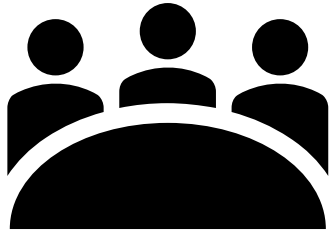


Working with the public creates buy-in and helps resolve major disagreements

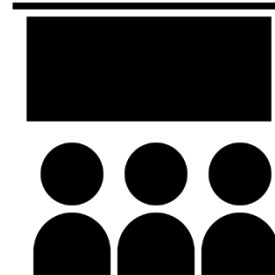


Public participation makes for a better rule

Public engagement



Form advisory
committee



Hold public listening
sessions

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from Noun Project

Recap

- Rule notices are published in the *State Register*, OAH's eComments site, or on the agency's website, or all three
- Drafting the rule takes a lot of work and requires public participation and feedback
- Revisor's Office must put the rule into style and form



Rulemaking basics

Rule draft

12/07/21

REVISOR

SS/BM

RD4677

1.1 **Bureau of Mediation Services**

1.2 **Proposed Permanent Rules Relating to the Minnesota Labor Relations Act and the**
1.3 **Public Employment Labor Relations Act**

1.4 **5500.0100 DEFINITIONS.**

1.5 Unless the language or context clearly indicates that a different meaning is intended,
1.6 the ~~words, terms, and phrases~~ in parts 5500.0100 to ~~5500.0500~~ shall 5500.2100 have the
1.7 ~~same meaning and definition as is contained in the definitions used~~ meanings given in
1.8 Minnesota Statutes, chapters 179 and 179A.

1.9 **5500.0200 PURPOSE, CONSTRUCTION, AND WAIVER.**

1.10 A. Parts 5500.0100 to 5500.0500 govern the conduct of all proceedings before
1.11 the commissioner of ~~mediation services~~ involving mediation. ~~Parts 5500.0100 to 5500.0500~~
1.12 ~~shall and are to be~~ liberally construed to effectuate the purposes and provisions of the
1.13 Minnesota Labor Relations Act.

1.14 B. The commissioner ~~or the commissioner's agent~~ may waive any ~~requirements,~~
1.15 requirement of parts 5500.0100 to 5500.0500 unless a party shows ~~prejudice thereby~~ that

The SONAR



Statement of Need and Reasonableness

Needed means that there are problems or a legislative directive that requires the agency to adopt or amend rules

Reasonable means that a proposed requirement is a reasonable solution to the problem

What is reasonable?

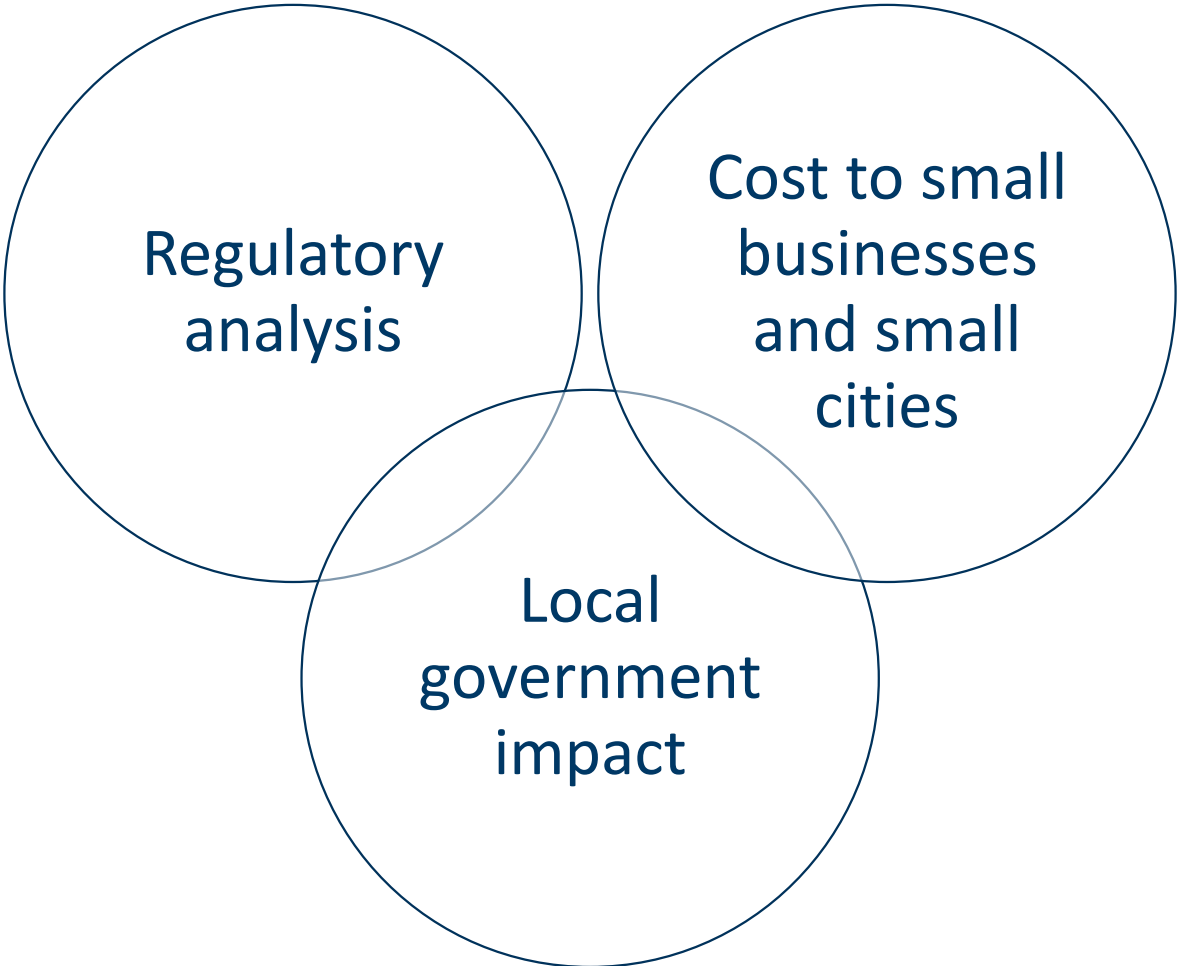


Must rationally connect with the proposed regulatory choice



The proposed regulatory choice doesn't need to be the "best"

Other SONAR requirements



Formally publishing the rule

30-day comment period



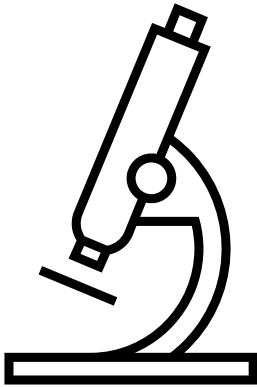
If hearing, 25-day posthearing comment period



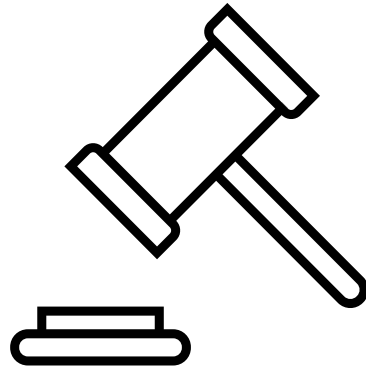
Recap

- The SONAR justifies the rule and the agency's regulatory choice
- The SONAR also estimates the rule's probable costs and its impact on local government and businesses
- Governor can veto a rule, but it's rare
- An agency can choose a hearing, or 25 people can request a hearing

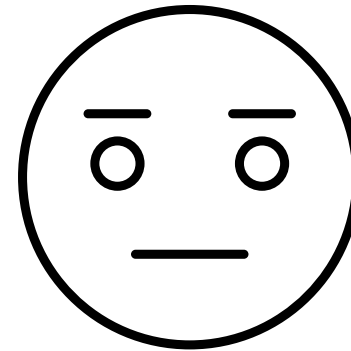
Office of Administrative Hearings



Reviews all rules



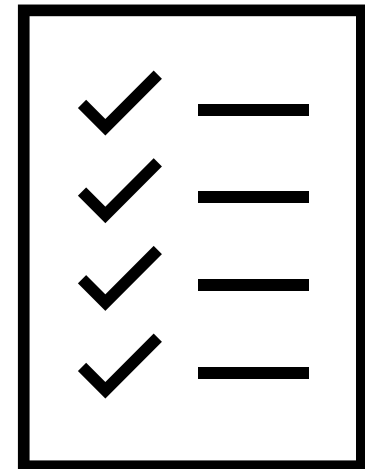
Staffed by administrative
law judges



Independent and
nonpartisan

Legal review

- ✓ Comply with APA requirements?
- ✓ Proper notice and comment?
- ✓ Statutory authority?
- ✓ Needed and reasonable?
- ✓ No defects in rule language?



Last steps

When all laws have been followed, the agency adopts the rule in a formal order

OAH then files a copy with the secretary of state

Some more paper shuffling

Third and final notice



1 by DailyPM
Project

Adoption Notice:
We have adopted
the rule; it will be
effective in 5
working days

Recap

- Rulemaking is important
- A rule is adopted by an agency
- A rule is a law
- An agency needs statutory authority to adopt a rule
- Every regulatory choice must be justified
- Rulemaking takes time!



DOC's rules for county jails (2911)

2021 changes (Hardel Sherrell Act)

Mandated DOC to adopt rules on 17 topics

Increased licensing authority

Required public notice of DOC actions

Established a process to review facility deaths

SUD-related topics for rulemaking

- Screening, appraisal, assessment, and treatment for persons confined or incarcerated in correctional facilities with mental illness or substance use disorders
- A policy on the involuntary administration of medications
- Suicide prevention plans and training
- Verification of medications in a timely manner
- Well-being checks
- Discharge planning, including providing prescribed medications to persons confined or incarcerated in correctional facilities upon release
- Clinical management of substance use disorders
- Information sharing with medical personnel and when medical assessment must be facilitated

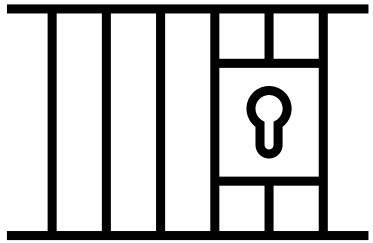
An example: conducting well-being checks for someone experiencing withdrawal

1. How do we screen for withdrawal?
2. What do we need to screen for? And when?
 - a. Alcohol
 - b. Drugs
 - c. Medication
 - d. Other?
3. How often should well-being checks be conducted?
4. What are withdrawal symptoms?
5. How long should someone be monitored?
6. When does the person need to be referred to health staff?

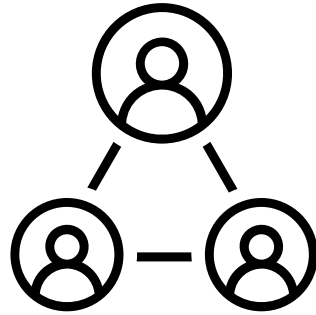
Another example: SUD treatment

1. How can we provide SUD treatment in jails?
2. Every jail is different:
 - a. Location: rural/urban
 - b. Resources
 - c. Community partners
 - d. Financial cost
3. Should we provide treatment in jails if there aren't community resources?
4. What about compliance with federal law?
5. What about length of stay?
6. How does SUD treatment affect other jail requirements and need for safety and security?

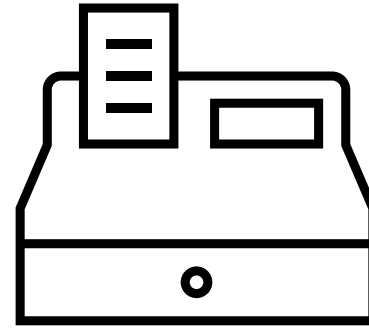
The challenges



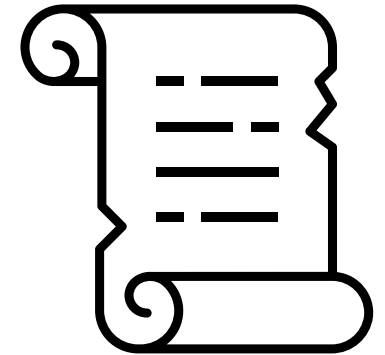
All jails are different



Different resources in
the community



Unfunded mandates for
jails



Rulemaking



A few more things

Rulemaking website

About DOC Rulemaking

The Minnesota Legislature delegates authority to state agencies to make administrative rules necessary to carry out the purpose of statutorily assigned duties. This process is known as rulemaking. Rulemaking is an important government function that allows state agencies to adopt, amend, or repeal rules. Both a rule and a statute have the force and effect of law. We all must follow both.

Minnesota rulemaking requires agencies to follow procedures under the Minnesota Administrative Procedure Act. Agencies must follow the act's many procedural requirements while accomplishing two main goals: accountability and transparency.

Rulemaking Areas

DOC manages nine rule chapters, which are overseen by three different units: **(1)** Inspection and Enforcement, **(2)** Hearings and Release, and **(3)** Community Corrections.

Inspection and Enforcement Unit	Hearings and Release Unit	Community Corrections
		
Chapter 2900 - New Corrections Facilities Chapter 2911 - Adult Detention Facilities Chapter 2920 - Adult Community-Based Residential Correctional Facilities Chapter 2945 - Municipal Jail Facilities Chapter 2955 - Residential Juvenile Sex Offender Treatment Chapter 2960 - Licensing of DOC & DHS Juvenile Facilities (Umbrella Rule) Chapter 2965 - Residential Adult Sex Offender Treatment	2940 - Supervised Release	2905 - Community Corrections Act

Contact Us

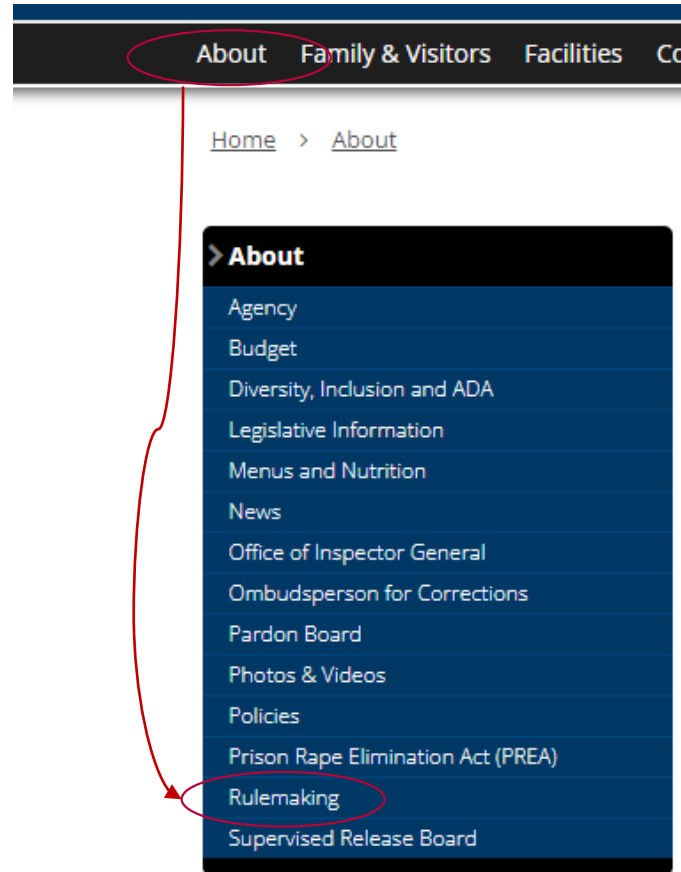
DOC Rulemaking Manager

Ian Lewentstein
1450 Energy Park Drive
St. Paul, MN 55108
[Email Us](#)

Subscribe to DOC's Rulemaking List

docrulemaking.DOC@state.mn.us

How to get there



<https://mn.gov/doc/about/rulemaking/>

being of approximately 4,200 employees, and the safety and security of the people committed to our custody, we prioritize strategies that hold people accountable for the offenses they commit while giving them the tools they need to succeed as they transition back to their communities.

Our responsibilities and work are rooted in chapter 241 of Minnesota statutes. Under Minnesota law, we are responsible for the “care, custody, and rehabilitation” of anyone committed to the Commissioner by the courts. Our mission, structure, and work flow from this statutory directive.

The individuals committed to the department can be incarcerated in our correctional facilities or be under our supervision in the community. No matter a person’s custody status, our mindset is the same: a person’s path to rejoining his or her community starts on the day they begin serving their sentence.

We view every day that follows as an opportunity. We have an opportunity as a department to make Minnesota a safer place to live by identifying and implementing effective strategies to transform lives. Our corrections officers, agents, case managers, and other employees have an opportunity to impact the lives of the people with whom they work. And the approximately 8,000 incarcerated individuals in our 11 correctional facilities and the approximately 97,000 people under community supervision have an opportunity to transform their lives

Rulemaking docket

Rulemaking Docket

Under the Administrative Procedure Act, DOC must maintain a public rulemaking docket describing the status of DOC rulemaking activities in progress or under consideration.

1

- [Inspection and Enforcement](#)
- Hearings and Release
- Community Corrections

Advisory committees

2

For some rules, DOC has formed advisory committees to help provide expertise and advice. For more information, please see our [advisory committee page](#).

Rulemaking meetings

For past and current rulemaking meetings, events, webinars, and hearings, please see our [rulemaking meetings page](#).

3

Advisory committees

Rulemaking Advisory Committees

This page lists current DOC advisory committees for its active rulemaking initiatives. You may read these documents for more information:

- [Rulemaking FAQ](#): in-depth overview of the rulemaking process
 - [Role of advisory committee](#): what you should expect while serving on a rulemaking advisory committee
-

Chapter 2911 - Jail Facilities

[+ Documents](#)

[+ Upcoming meetings](#)

Chapters 2955 and 2965 - Sex Offender Treatment Programs

[+ Documents](#)

[+ Past meetings](#)

[+ Upcoming meetings](#)



Rulemaking Resources

Rulemaking Resources and Feedback



We welcome your participation in our rulemaking proceedings. Please help us improve our rules and website so we can transform lives for a safer Minnesota.

Rulemaking feedback

Do you have comments or concerns on any current DOC rule or suggestions for improving the rulemaking web page content? Please submit your comments below or email docrulemaking.DOC@state.mn.us.



[Provide rule feedback](#)

[Provide website feedback](#)

Rulemaking resources

Rulemaking is complex, but there are resources to help you understand the rulemaking process and how to participate.

If you want to comment on a rule after it is formally published, you can go to the state's eComments website. Or you can search old rulemaking proceedings through the Minnesota Rule Status System or the Office of Administrative Hearings' Archives.

For frequently asked questions on the rulemaking process, [see our FAQ page](#).

[Administrative Procedure Act \(Statute\)](#)

[Administrative Procedure Act \(Rule\)](#)


[eComments Site](#)


[Minnesota Rule Status Search](#)

[Rulemaking Archives](#)

Provide feedback

DOC
Rulemaking

 DEPARTMENT
OF CORRECTIONS



Rule Suggestions

Please submit any comments or concerns that you have on DOC rules

* Required

Rulemaking questions

1. What rule do you want to comment on? *

Select your answer

Thank You!

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