

Department of Corrections[201]

Adopted and Filed Emergency

The Department of Corrections hereby amends Chapter 1, “Departmental Organization And Procedures,” Chapter 38, “Sex Offender Management and Treatment,” Chapter 42, “Probation Services,” Chapter 43, “Residential Facilities,” Chapter 44, “Work Release,” Chapter 45, “Parole,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 904.108

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 905.7 and 17A.3.

Purpose and Summary

Amendments to chapters 1, 38, 42, 43, 44 and 45, were Adopted and Filed and published in the August 1, 2018, Iowa Administrative Bulletin as **ARC 3929C**. On August 14, 2018, the Administrative Rules Review Committee expressed concern regarding the changes to the rules pertaining to the judicial districts. Pursuant to Iowa Code section 17A.4(3), the Committee voted to delay the effective date of **ARC 3929C** for 70 days, allowing time for further discussion for the department and the judicial districts to finalize changes. At its November 13th, 2018, meeting, the Administrative Rules Review Committee reviewed language proposed by Corrections staff and, pursuant to Iowa Code section 17A.4(3), approved the Emergency adoption of the amendments.

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the department of Corrections finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by the Administrative Rules Review Committee.

In compliance with Iowa Code section 17A.4(3)"a," the Administrative Rules Review Committee at its November 13, 2018, meeting reviewed the department of Corrections' determination and this rule making and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the department of Corrections also finds that the normal effective date of rule making, 35 days after publication, should be waived and the rule making made effective November 14th, 2018, so the emergency rule filing aligns with the 70 day expiration date.

Adoption of Rule Making

This rule making was adopted by the department of Corrections on November 2nd, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 3929C** to allow for public comment.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 201—Chapter 7.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 14th, 2018.

The following rule-making action is adopted:

ITEM 1. Rescind the definition of "deputy director" in 201—1.1(904)

~~"Deputy director" means the administrator who is appointed by the director and is responsible for an operational division within the department of corrections. The five operational divisions are administration, eastern operations, western operations, offender~~

~~services and prison industries.~~

ITEM 2. Amend rule 201—1.2(904) as follows:

201—1.2(904) Mission and function. The department of corrections is mandated by Iowa Code chapter 904 and consists of a policy board, a director and ~~four operational divisions~~ areas of responsibility.

The mission of the department of corrections is creating opportunities for safer communities.

~~The department is charged with the operation of the state's penal institutions, judicial district department of corrections programs, prison industries, corrections administration, and contracting with the judicial district departments of correctional services for community correctional services. It is further charged with accreditation and of funding of community-based corrections programs, including but not limited to pretrial release, presentence investigation, probation, parole, residential facilities, work release centers and other duties provided for by law.~~

ITEM 3. Amend rule 201—1.7(904) as follows:

201—1.7(904) Director. The governor appoints the director of the department of corrections. The director is responsible for the daily administration of the department: as follows: ~~The operations are performed by four divisions consisting of institutional operations, community based corrections, administration, and prison industries. The deputy directors of these divisions report to the director of the department.~~

~~In addition to the deputy directors, the general counsel/inspector general, the director of media and public relations, the director of research recidivism reduction and the medical~~

~~services director report to the director of the department.~~

1.7(1) to 1.7(3) No Change.

Item 4 Amend sub rule 1.8(1) and 1.8(2)(904) as follows:

1.8(1) The deputy director of institutional operations is responsible for all institutions and facilities. These descriptions are in no way binding on the director's authority to transfer incarcerated individuals between institutions.

a. The deputy director of institutional operations is responsible for:

(1) through (9) No changes.

b. The deputy director of institutional operations is also responsible for the following:

(1) Classification.

(2) Education.

(3) Safety officers.

(4) Records.

(5) Transfers.

1.8(2) The deputy director of CBC:

a. Is responsible for ~~supervising and~~ coordinating of Code of Iowa requirements as they apply to the judicial district department of correctional services for all judicial districts to include:

(1) through (8) No Changes

b. ~~Is responsible for providing assistance and support to the judicial district departments of correctional services and for periodic review and accreditation of these programs. The following services shall be provided in addition to parole and work release:~~

Is to act as liaison with and assist community based corrections through the purchase of service agreement and periodic review and accreditation of these programs:

- (1) Pretrial interviews.
- (2) Pretrial supervision.
- (3) Presentence investigation.
- (4) Probation.
- (5) Residential services.
- (6) Community service sentencing.
- (7) OWI facilities.
- (8) Parole supervision.

~~e. Is responsible for programming for and treatment of incarcerated individuals to include the following:~~

- ~~(4)(9) Interstate compact administration.~~
- ~~(2)(10) Substance abuse treatment services~~
- ~~(3)(11) Cognitive learning.~~
- ~~(4)(12) Batterers' education programs~~ Iowa domestic abuse program.
- ~~(5)(13) Sex offender treatment.~~
- ~~(6)(14) Pre-employment programs.~~
- (15) Special sentences.

Item 5 Amend sub rule 38.2(3) as follows:

38.2(3) Risk assessment instrument. ~~Risk assessments used~~ Districts ~~shall be conducted utilizing the risk assessment instruments outlined below as~~ use the statewide approved and validated by the department of corrections with collaborative input from the judicial districts

~~and other affected stakeholders risk/needs assessment. The risk assessment should be completed within 30 days prior to the incarcerated individual's release from custody or upon the incarcerated individual's/client's placement on probation, parole, or work release.~~

Item 6 Amend sub rule 42.1(4) as follows:

42.1(4)~~The district department~~ Districts shall have ~~uniform~~ statewide approved written policies and procedures which ensure the use of the statewide case management system ~~so that client risk,~~ Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors in an effort to mitigate the probability for future violence, criminal behavior and are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization. The system should be designed to By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on moderate and high risk clients and shall include the following elements: ongoing risk and need clients who pose a greater risk to re-offend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core correctional practices to include: on-going risk needs assessment, responsiveness, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.

Item 7 Amend sub rule 43.1(18) as follows:

43.1(18) ~~The district department~~ Districts shall have ~~uniform~~ statewide approved written

policies and procedures which ensure the use of the statewide case management system ~~so that client risk,~~ Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors in an effort to mitigate the probability for future violence, criminal behavior and are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization. The system should be designed to By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on ~~moderate and high risk clients and shall include the~~ following elements: ongoing risk and need clients who pose a greater risk to re-offend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core correctional practices to include: on-going risk needs assessment, responsiveness, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.

Item 8 Amend paragraph 44.1 (5) "c" as follows:

c. ~~The district department~~ Districts shall have ~~uniform~~ statewide approved written policies and procedures which ensure the use of the statewide case management system ~~so that client risk,~~ Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors in an effort to mitigate the probability for future violence, criminal behavior and are identified using the approved uniform and validated risk/needs assessment instruments and

~~are addressed in an effort to lower risk and reduce victimization. The system should be designed to~~ By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on moderate and high risk clients and shall include the following elements: ongoing risk and need clients who pose a greater risk to re-offend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core correctional practices to include: on-going risk needs assessment, responsiveness, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.

Item 9 Amend paragraph 45.1 (2) "b" as follows:

~~b. The district department~~ Districts shall have uniform statewide approved written policies and procedures which ensure the use of the statewide case management system so that client risk. Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors in an effort to mitigate the probability for future violence, criminal behavior and are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization. The system should be designed to By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on moderate and high risk clients and shall include the following elements: ongoing risk and need clients who pose a greater risk to re-offend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core correctional practices to

include: on-going risk needs assessment, ~~responsivity, case planning,~~ case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.