



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 20, 2020

NOTICE OF FILING
ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
Michigan Office of Administrative Hearings and Rules (Administrative Rule #20-101-HS)
Legislative Service Bureau (Secretary of State Filing #20-10-09)
Department of Health and Human Services

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #20-101-HS (Secretary of State Filing #20-10-09) on this date at 11:39 A.M. for the Department of Health and Human Services entitled, "Juvenile Court-Operated Facilities".

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.33, 24.244, or 24.245a.

Sincerely,

Jocelyn Benson
Secretary of State

Melissa Malerman / OK

Melissa Malerman, Departmental Supervisor
Office of the Great Seal

Enclosure



Since 1941

Legal Division

Kevin H. Studebaker, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Health and Human Services dated October 8, 2020, amending R 400.10177 of the Department's rules entitled "Juvenile Court Operated Facilities." I approve the rules as to form, classification, and arrangement.

Pursuant to section 44(1) of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.244(1), these rules are being processed without a public hearing.

Dated: October 13, 2020

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,
Legal Counsel



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated October 8, 2020, in which the Department of Health and Human Services proposes to modify a portion of the Michigan Administrative Code entitled “**Juvenile Court Operated Facilities**” by:


- ◆ Amending R 400.10177.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: October 14, 2020

Michigan Office of Administrative Hearings and Rules

By: 
Katie Wienczewski,
Attorney



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR


ROBERT GORDON
DIRECTOR

CERTIFICATE OF ADOPTION

By authority conferred on the Department of Health and Human Services by sections 1 and 14 of the social welfare act, 1939 PA 280, MCL 400.1 and 400.14, and section 2 of 1973 PA 116, MCL 722.112, the Director formally adopts the rules entitled "Juvenile Court-Operated Facilities".

R 400.10177 is amended in the Michigan Administrative Code.

Date: September 22 , 2020



Robert Gordon, Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF CHILD WELFARE LICENSING

CHILDREN'S SERVICES AGENCY

JUVENILE COURT OPERATED FACILITIES

Filed with the secretary of state on October 20, 2020

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a.

(By authority conferred on the department of health and human services by sections 1 and 14 of the social welfare act, 1939 PA 280, MCL 400.1 and 400.14, and section 2 of 1973 PA 116, MCL 722.112.)

R 400.10177 of the Michigan Administrative Code is amended, as follows:

R 400.10177 Resident restraint; pregnant youth.

Rule 177. (1) The facility shall establish and follow written policy and procedures specifying the use of resident restraint.

(2) The written policy must limit the uses of resident restraint to the following:

(a) As a precaution against escape during transfer.

(b) For medical reasons by direction of the medical officer.

(c) To prevent self-injury, injury to others, or property damage.

(3) The written resident restraint policy must prescribe the maintenance of written records of the routine and emergency distribution and use of restraint equipment.

(4) Restraint equipment and physical restraint techniques must not be used for punishment.

(5) Resident restraint must only be applied for the minimum time necessary to accomplish the purpose for its use as specifically permitted in subrule (2) of this rule and must only be applied with the approval of the facility administrator or administrative designee. Approval must be obtained within 20 minutes after the restraint has been initiated.

(6) Subrules (7) and (8) of this rule apply to those secure juvenile detention and correction facilities, for which the primary purpose is to serve juveniles that have been accused of or adjudicated delinquent for having committed an offense-

(7) Mechanical restraints must not be used on pregnant youth, including youth who are in labor, delivery, and post-partum recovery, unless credible, reasonable grounds exist to believe the youth presents an immediate and serious threat of hurting self, staff, or others.

(8) The following restraints are prohibited for use on pregnant youth unless reasonable grounds exist to believe the youth presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method:

(a) Abdominal restraints.

(b) Leg and ankle restraints.

(c) Wrist restraints behind the back.

(d) Four-point restraints.

(9) A staff member shall be present continuously while material or mechanical restraint equipment is being used on a resident.

(10) Each use of material or mechanical restraint equipment must be documented in a written record and must include all of the following information:

- (a) The name of the resident.
- (b) The name of the administrator or designee who authorized the use of the equipment, and the time of the authorization.
- (c) The time the restraint equipment was applied.
- (d) The name of the staff member who was responsible for the application.
- (e) A description of the specific behavior that necessitated its use.
- (f) The name of the staff person who was continuously with the resident.
- (g) The date and the time of removal of the equipment and the name of the person removing the equipment.