

# New federal rules may strain county jails

Set of regulations an 'unfunded mandate' on cash-strapped Ohio facilities, officials say

By [Jessica Wehrman](#)

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WASHINGTON — A 2003 law passed by Congress and pushed by then-Sen. Mike DeWine set an ambitious and admirable goal of reducing rape and sex abuse in the nation's correctional system.

But nearly a decade after that law passed, new regulations associated with it have some Ohio law-enforcement officials concerned that the costs and bureaucracy may overwhelm already-strapped county jails.

The officials who wrote the regulations "want a perfect world," said Capt. Brian Arnold of the Stark County sheriff's office. He has a 10-inch-tall stack of papers on his desk describing how to implement the law. "But there's not enough money for a perfect world."

According to the *Federal Register*, the cost of compliance nationwide will be about \$6.9 billion between 2012 and 2026. The average cost to comply with the standards is about \$55,000 for prisons, \$50,000 for jails and \$54,000 for juvenile facilities. An analysis by the conservative American Action Forum finds that the new rules will create a paperwork burden of 148,455 hours nationwide.

The 128 pages of regulation include a long list of actions aimed at fighting sex abuse in prisons, including provisions ranging from overseeing hiring and promotion to properly investigating allegations of rape in prison. States that do not comply with the regulations could lose 5 percent of their annual prison and jail support money from the Department of Justice.

The set of rules, according to the American Action Forum, "imposes a costly, complicated regulatory framework on states currently battling recurring budget deficits." The analysis goes on to say that the rules include no metrics for success, meaning there's no clear way of determining whether the law actually reduces incidences of prison rape or sexual assault.

"It's an unfunded mandate," said Robert Cornwell, executive director of the Buckeye State Sheriffs' Association.

The new rules come at a time when county and city jails are particularly cash-strapped. "We were already struggling," Cornwell said.

He said he admires the law's goal, but the cost may be untenable for county and city jails already trying to stay afloat. "You've got to have money," he said.

Arnold, of Stark County in northeastern Ohio, said the county began implementing some of the recommendations years ago. But the latest rules, he said, go further. He'll have to reprint all the rule books, add new surveillance cameras to high-risk jail areas, make signs informing

detainees about the rape crisis center, and make sure staff is appropriately trained and assigned so that the law can be implemented properly.

Those are the little things, he said.

The bigger things will be overhauling hiring practices to comply with the rules and participating in an audit by an external independent agency every three years.

"It's kind of created a monster," Arnold said. "I don't know where the money is going to come from."

He said the county jail laid off 41 people last year.

Others, however, downplay the impact of the new rules.

Chief Deputy Mark Barrett of the Franklin County sheriff's office said the county started complying with the law soon after its 2003 passage. The new regulations, he said, aren't particularly daunting.

"Nothing caught us by surprise," he said.

Barrett said he's not sure yet what sort of financial impact the new laws will have. As far as he can tell, one of the biggest changes will be assigning a staff person to oversee compliance with the law.

"I don't know that we have much problem with it," Barrett said, adding that he thinks the department will have to do a few tweaks to be in compliance.

JoEllen Smith, a spokesperson for the Ohio Department of Rehabilitation and Correction, said the new rules require the department to have a written policy mandating zero tolerance toward all forms of sex abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. The department, she said, already has such a policy in place.

It also will have to add a coordinator to oversee implementation of the law as well as work with institutions to make sure they have someone doing the same on a local basis.

So far, the only cost the department expects is salary for the coordinator. That cost, including salary and benefits, is about \$103,371 per year, she said.

The department also is in the process of forming an agency to examine each of the new rules and compare them to existing policy and procedures. It'll adjust procedures according to the new standards, Smith said.

For his part, DeWine, now Ohio attorney general and tasked with implementing the very law he co-sponsored in 2003, said many of the changes called for in the legislation were done within the first few years of the bill's passage.

Some, he said, are straightforward: doing a better assessment of likely predators and likely victims, looking at who has access to cells.

"It's really going back to just how you run a prison," he said. "And these are things that, frankly, should've been done anyway."

“We’re a big prison system,” DeWine said, “And we have not incurred any sort of massive costs.”

[jwehrman@dispatch.com](mailto:jwehrman@dispatch.com)

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