

# SENATE BILL No. 1109

October 18, 2016, Introduced by Senator JONES and referred to the Committee on Judiciary.

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending section 7 (MCL 24.207), as amended by 2011 PA 52.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 7. "Rule" means an agency regulation, statement,  
2       standard, policy, ruling, or instruction of general applicability  
3       that implements or applies law enforced or administered by the  
4       agency, or that prescribes the organization, procedure, or practice  
5       of the agency, including the amendment, suspension, or rescission  
6       of the law enforced or administered by the agency. Rule does not  
7       include any of the following:

- 8           (a) A resolution or order of the state administrative board.  
9           (b) A formal opinion of the attorney general.  
10          (c) A rule or order establishing or fixing rates or tariffs.  
11          (d) A rule or order pertaining to game and fish and

1 promulgated under parts 401, 411, and 487 of the natural resources  
2 and environmental protection act, 1994 PA 451, MCL 324.40101 to  
3 324.40120, 324.41101 to 324.41105, and 324.48701 to 324.48740.

4 (e) A rule relating to the use of streets or highways, the  
5 substance of which is indicated to the public by means of signs or  
6 signals.

7 (f) A determination, decision, or order in a contested case.

8 (g) An intergovernmental, interagency, or intra-agency  
9 memorandum, directive, or communication that does not affect the  
10 rights of, or procedures and practices available to, the public.

11 (h) A form with instructions, an interpretive statement, a  
12 guideline, an informational pamphlet, or other material that in  
13 itself does not have the force and effect of law but is merely  
14 explanatory.

15 (i) A declaratory ruling or other disposition of a particular  
16 matter as applied to a specific set of facts involved.

17 (j) A decision by an agency to exercise or not to exercise a  
18 permissive statutory power, although private rights or interests  
19 are affected.

20 (k) Unless another statute requires a rule to be promulgated  
21 under this act, a rule or policy that only concerns the inmates of  
22 a state correctional facility and does not directly affect other  
23 members of the public, except that a rule that only concerns  
24 inmates ~~which~~**THAT** was promulgated before December 4, 1986, is a  
25 rule and remains in effect until rescinded but shall not be  
26 amended. As used in this subdivision, "state correctional facility"  
27 means a facility or institution that houses an inmate population

1 under the jurisdiction of the department of corrections.

2 (l) A rule establishing special local watercraft controls  
3 promulgated under former 1967 PA 303. A rule described in this  
4 subdivision may be rescinded as provided in section 80113(2) of the  
5 natural resources and environmental protection act, 1994 PA 451,  
6 MCL 324.80113.

7 (m) All of the following, after final approval by the  
8 certificate of need commission under section 22215 of the public  
9 health code, 1978 PA 368, MCL 333.22215, or the statewide health  
10 coordinating council under former section 22217 of the public  
11 health code, 1978 PA 368:

12 (i) The designation, deletion, or revision of covered medical  
13 equipment and covered clinical services.

14 (ii) Certificate of need review standards.

15 (iii) Data reporting requirements and criteria for determining  
16 health facility viability.

17 (iv) Standards used by the department of ~~community~~ health **AND**  
18 **HUMAN SERVICES** in designating a regional certificate of need review  
19 agency.

20 (v) The modification of the 100 licensed bed limitation for  
21 extended care services programs set forth in section 22210 of the  
22 public health code, 1978 PA 368, MCL 333.22210.

23 (n) A policy developed by the ~~family independence agency~~  
24 **DEPARTMENT OF HEALTH AND HUMAN SERVICES** under section 6(3) of the  
25 social welfare act, 1939 PA 280, MCL 400.6, setting income and  
26 asset limits, types of income and assets to be considered for  
27 eligibility, and payment standards for administration of assistance

1 programs under that act.

2 (o) A policy developed by the ~~family independence agency~~  
3 **DEPARTMENT OF HEALTH AND HUMAN SERVICES** under section 6(4) of the  
4 social welfare act, 1939 PA 280, MCL 400.6, to implement  
5 requirements that are mandated by federal statute or regulations as  
6 a condition of receipt of federal funds.

7 (p) The provisions of an agency's contract with a public or  
8 private entity including, but not limited to, the provisions of an  
9 agency's standard form contract.

10 (q) A policy developed by the department of ~~community health~~  
11 **AND HUMAN SERVICES** under the authority granted in section 111a of  
12 the social welfare act, 1939 PA 280, MCL 400.111a, to implement  
13 policies and procedures necessary to operate its health care  
14 programs in accordance with an approved state plan or in compliance  
15 with state statute.

16 (R) **A MINIMUM STANDARD APPROVED OR ESTABLISHED UNDER AUTHORITY**  
17 **GRANTED BY THE MICHIGAN INDIGENT DEFENSE COMMISSION ACT, 2013 PA**  
18 **93, MCL 780.981 TO 780.1003.**