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Sequence Number: 02-07-22
Notice ID(s): 3439
File Date: 2/7/2022

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Correction
Division:	
Contact Person:	Torrey S Grimes, Senior Counsel and Legislative Liaison
Address:	6 th Floor, Rachel Jackson Bldg, 320 6 th Ave N Nashville TN 37243
Zip:	37243
Phone:	(615) 253-8240
Email:	torrey.s.grimes@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Jean McClendon
Address:	6 th Floor, Rachel Jackson Bldg, 320 6 th Ave N Nashville TN 37243
Phone:	615.253.8240
Email:	jean.mcclendon@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	320 6 th Ave North – Rachel Jackson Bldg.		
Address 2:	Ground Floor Conference Room		
City:	Nashville		
Zip:	37243		
Hearing Date:	03/31/2022		
Hearing Time:	2:00 PM	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

Comments may also be mailed to the ADA contact or may be emailed to Jean.McClendon@tn.gov. All comments must be received by Wednesday, March 30, 2022 at 4:30 PM CST. If a member of the public wishes to attend the public hearing, advance notice to Ms. McClendon is requested.

Meeting may be attended virtually via Microsoft Teams at the following link:

https://teams.microsoft.com/meetingOptions/?organizerId=1b6a2440-5999-42e5-890c-6c483ff6a730&tenantId=f345bebf-0d71-4337-9281-24b941616c36&threadId=19_meeting_MzAwMWEyMGMTZmQ2Ny00ZmEwLWJiOWQyZjJiOWM3N2E0YTl2@thread.v2&messageId=0&language=en-US

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to

accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
Chapter 0420-02-03	County Correctional Incentives Program Participation and Fund Distribution Subsidy Grant Funds
Rule Number	Rule Title
0420-02-03-.08(5)	Accounting Procedures
0420-02-03-.10	Preface – Accreditation Stipend
0420-02-03-.11	Definitions
0420-02-03-.12	Accreditation Stipend Application Procedures
0420-02-03-.13	Review of Accreditation Stipend Applications
0420-02-03-.14	Compensation for Accreditation Stipend
0420-02-03-.15	Annual Reporting and Review to Maintain Accreditation Stipend
0420-02-03-.16	County’s Failure to Comply with Accreditation Stipend Regulations

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0420-02-03
County Correctional Incentives Program Participation and Fund Distribution Subsidy Grant Funds

New Rules

Chapter 0420-02-03-.08(5) and
Chapter 0420-02-03-.10 - .16
County Correctional Incentives Program Participation and Fund Distribution Subsidy Grant Funds – Accreditation Stipend

Table of Contents

0420-02-03-.08(5) Accounting Procedures
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0420-02-03-.13 Review of Accreditation Stipend Applications
0420-02-03-.14 Compensation for Accreditation Stipend
0420-02-03-.15 Annual Reporting and Review to Maintain Accreditation Stipend
0420-02-03-.16 County’s Failure to Comply with Accreditation Stipend Regulations

0420-02-03-.08(5) Accounting Procedures

- (5) In the event that a county has been reimbursed pursuant to T.C.A. § 41-8-106(h) for housing convicted felons for a continuous period of three (3) or more fiscal years and has received the maximum amount allowed per prisoner per day as reasonable allowable costs during this period, then the county shall thereafter be presumed to be entitled to the full maximum amount allocated per prisoner per day as reimbursement of reasonable allowable costs for housing such prisoners and will not be required to provide documentation to the department regarding costs incurred beyond information necessary to determine the number of prisoner days for which the county is entitled to reimbursement.

Authority: T.C.A. § 41-8-106.

0420-02-03-.10 Preface – Accreditation Stipend:

- (1) Pursuant to T.C.A. § 41-8-108, the Tennessee Department of Correction is required to establish rules for the general administration of the County Correctional Incentives Act.
- (2) For purposes of this Program, all definitions as stated in T.C.A. § 41-8-103 apply.
- (3) In addition to Subsidy Grant Funds, eligible counties may also receive an Accreditation Stipend for the purposes of implementing and/or improving access to evidence-based programming to help ensure successful reentry into society, reducing recidivism and improved rehabilitation services.

Authority: T.C.A. §§ 41-8-102, 41-8-103, 41-8-106 and 41-8-108; Section 18 of Public Chapter 410 (2021).

0420-02-03-.11 Definitions:

- (1) “Eligible County” means a county with a local correctional facility accredited by the TCI as Tier 1 or Tier 2 and that the Department determines meets the following:
- (a) The county houses convicted felons;
- (b) The county administers a Department-approved validated risk-needs assessment to all felons within forty-five (45) days of admission to the county facility;
- (c) The county provides evidence-based programming;

- (d) All felons housed by the county are eligible to participate in evidence-based programming that is matched to each felon's risk and needs and are not required to participate in programs not indicated as needed by the risk and needs assessment;
 - (e) The county makes reasonable efforts to select evidence-based programming that fits the demonstrated needs of the county's felony offender population by serving a substantial portion of the felons, rather than a narrow subset of felons; and
 - (f) The county is compliant with, or is making reasonable efforts to comply with, the federal Prison Rape Elimination Act of 2003 (34 U.S.C. § 30301 et seq.).
- (2) "Evidence-Based Programming" means a program or programs shown by scientific research to effectively reduce recidivism rates and increase an offender's likelihood of success following release from incarceration. Programs can focus on education, vocational training, mental health, substance abuse and rehabilitation, or building healthy relationships.
 - (3) "Recidivism Rate" means the number of unique felons released from incarceration and the number of those unique felons who subsequently return to incarceration within three-years of release.
 - (4) "TCI" means the Tennessee Corrections Institute.

Authority: T.C.A. § 41-8-106; Section 18 of Public Chapter 410 (2021).

0420-02-03-.12 Accreditation Stipend Application Procedures:

- (1) Any eligible county participating in the County Correctional Incentives Program may apply to the Department for an Accreditation Stipend, however participation by any eligible county is voluntary.
- (2) Eligible counties with local correctional facilities accredited by the TCI as Tier 1 or Tier 2 must make formal application to the Department.
- (3) The application submitted by an eligible county for the Accreditation Stipend must conform to the format provided by the Department and must include the following information:
 - (a) Which Tier of accreditation the county received from the TCI.
 - (b) A description of the evidence-based programs the county presently has implemented for state inmates.
 - 1. Information and resources regarding TDOC approved evidence-based programming can be found at <https://www.tn.gov/correction/redirect---rehabilitation/reentry-success-act.html>
 - (c) The percentage of the county's state inmate population anticipated to be involved in the evidence-based programs.
 - (d) The results of the risk and needs assessment administered by the county for state inmates.
 - (e) Signatures of the Sheriff or the Workhouse Superintendent, as applicable.

Authority: T.C.A. §41-8-106; Section 18 of Public Chapter 410 (2021).

0420-02-03-.13 Review of Accreditation Stipend Applications:

- (1) No county's application for an Accreditation Stipend will be considered unless all required information is provided.
- (2) All applications for an Accreditation Stipend will be reviewed by the Department for approval or disapproval. In the event an application is not approved the Department will notify the Sheriff/Superintendent of the reason(s) for the disapproval. The county may submit a new application within 60 days of such disapproval.

Authority: T.C.A. §41-8-106; Section 18 of Public Chapter 410 (2021).

0420-02-03-.14 Compensation for Accreditation Stipend:

- (1) The amount of the Accreditation Stipend is:
 - (a) Three dollars (\$3.00) per day for each convicted felon housed in counties that have received a Tier 1 accreditation from the TCI and
 - (b) Six dollars (\$6.00) per day for each convicted felon housed in counties that have received a Tier 2 accreditation from the TCI.
- (2) The county must submit to the Judicial Cost Accountant claims for the Accreditation Stipend in the same manner as the county submits claims for Subsidy Grant Funds.

Authority: T.C.A. §41-8-106; Section 18 of Public Chapter 410 (2021).

0420-02-03-.15 Annual Reporting and Review to Maintain Accreditation Stipend:

- (1) Each county must complete the Annual Accreditation Stipend Report established by the Department and submit such report to the Commissioner on or before October 1 of each year beginning in the year 2022.
- (2) The Annual Accreditation Stipend Report shall, at a minimum, include the following:
 - (a) Offender name, date of birth, and TDOC number,
 - (b) Offender program completion, beginning and end dates, and
 - (c) Overall percentage of felons who enroll in the evidence-based programming and complete the course of programming in a timely manner.
- (3) The Department will determine the successful percentage is satisfactory based on the historical completion outcomes for the particular programming. A satisfactory percentage is a percentage that is equal to or less than similar TDOC programs as reported in TDOC's most recently published Statistical Abstract.

Authority: T.C.A. §41-8-106; Section 18 of Public Chapter 410 (2021).

0420-02-03-.16 County's Failure to Comply with Accreditation Stipend Regulations:

- (1) If a county fails to maintain eligibility and compliance warranting the Accreditation Stipend, then the Department may withhold Accreditation Stipend payments to the county or adjust the amount of such payments, as appropriate.
- (2) In the case of material noncompliance or ineligibility the Department may require the county to repay any Accreditation Stipend payments made to the county during the period of material noncompliance or ineligibility.
- (3) After a county has received the Accreditation Stipend for three (3) years, the Department will annually review the recidivism rate as defined in the Chapter 1400-05 Voluntary Accreditation Standards for Local Correctional Facilities to ensure that the recidivism rate is lower than that of the offenders who did not participate in evidence-based programming for which the local correctional facility was accredited. The Department may require a county to develop a corrective action plan if the programming in the county did not reduce the recidivism rate by a satisfactory percentage.

Authority: T.C.A. §41-8-106; Section 18 of Public Chapter 410 (2021).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 2/7/2022

Signature: Debra K. Inglis

Name of Officer: Debra K. Inglis

Title of Officer: Deputy Commissioner/General Counsel

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Filed with the Department of State on: 2/7/2022

Tre Hargett
Tre Hargett
Secretary of State

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FEB 07 2022

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