



U.S. Department of Justice

Office of Justice Programs

*Office of the Assistant Attorney General*

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Washington, D.C. 20531

September 14, 2023

The Honorable **FULL NAME**  
Governor of **STATE**  
**ADDRESS 1**  
**ADDRESS 2**  
**CITY, STATE ZIP**

Dear Governor **NAME:**

Eliminating prison rape remains a high priority of the U.S. Department of Justice (DOJ). The Prison Rape Elimination Act (PREA) addresses both sexual abuse and sexual harassment in federal, state, and local confinement facilities, including adult prisons and jails, juvenile facilities, lockups, and community confinement facilities. The PREA Standards (Standards), found at 28 C.F.R. Part 115, help DOJ and its stakeholders to achieve and maintain changes in policies and practices that keep persons who are confined safe from sexual abuse and sexual harassment.

As such, PREA contains mandates that may affect DOJ grant funding to your state.<sup>1</sup> The PREA statute provides that if a governor is not able to certify to DOJ that the state is in full compliance with the Standards, the governor has the option to submit an assurance form to DOJ **that not less than 5 percent** of certain DOJ grant funds will be used solely for the purpose of enabling the state to achieve and certify full compliance with the Standards in future years. See 34 U.S.C. § 30307(e)(2).

The Justice for All Reauthorization Act of 2016 (Pub. L. No. 114-324) (JFARA) made several significant changes to the PREA statute. Among them, the JFARA required that the assurance option would sunset as of December 16, 2022. The JFARA also provided that, for two years following the sunset of the assurance option, a governor who can certify that the state has audited at least 90% of the facilities under his/her operational control may request that the Attorney General allow the submission of an emergency assurance form. See 34 U.S.C. § 30307(e)(2)(D)(iii). An emergency assurance means the state will use not less than 5 percent of certain DOJ grant funds solely for the purpose of enabling the state to achieve and certify full compliance with the Standards in future years. Governors may, therefore, submit an emergency assurance form to DOJ for Audit Year 1 of Cycle 4 (August 20, 2022 – August 19, 2023). The final opportunity to submit an emergency assurance form will be for Audit Year 2 of Cycle 4 (August 20, 2023 – August 19, 2024).<sup>2</sup>

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<sup>1</sup> In this letter, “state” refers to states, U.S. territories, and the District of Columbia.

<sup>2</sup> For more information, visit the PREA Amendment Justice for All Reauthorization Act of 2016 Fact Sheet here: [www.bja.gov/publications/JFARA-Fact-Sheet\\_Updated-2017.03.01.pdf](http://www.bja.gov/publications/JFARA-Fact-Sheet_Updated-2017.03.01.pdf).

If the governor is not able to certify to DOJ that the state is in full compliance with the Standards and does not submit an emergency assurance form, the state will be subject to the loss of 5 percent of certain DOJ grant funds that it would otherwise receive. In Fiscal Year (FY) 2024, there will be two DOJ grant programs (or portions thereof) subject to this statutory provision. These two grant programs are the Bureau of Justice Assistance's (BJA) Edward Byrne Memorial Justice Assistance Grant (JAG) Program<sup>3</sup> and the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Title II Formula Grants Program.<sup>4</sup>

To comply with the PREA statute and the emergency assurance provision in JFARA, governors must submit either a certification or an emergency assurance form to DOJ, along with the additional materials outlined in the attached PREA Certification and Emergency Assurance Submission Instructions document. Certifications and emergency assurance forms submitted by governors this year apply to states' PREA compliance status during the period of August 20, 2022, through August 19, 2023 (Audit Year 1 of Cycle 4)<sup>5</sup>. All certifications and emergency assurance forms, and the required supporting materials, must be emailed to DOJ's PREA Management Office (PMO) at [PREACompliance@usdoj.gov](mailto:PREACompliance@usdoj.gov).

If the PMO does not receive a signed copy of either the certification or emergency assurance form and the required documentation listed in the attached PREA Certification and Emergency Assurance Submission Instructions by October 16, 2023, your state will be subject to a loss of 5 percent of each of the FY 2023-covered grant funds referenced above, as required under 34 U.S.C. § 30307(e)(2).

DOJ is committed to working with governors, state correctional administrators, PREA coordinators, and other stakeholders to assist confinement facilities and agencies with achieving full compliance with the Standards, so that as many governors as possible are able to submit a certification of full compliance with the Standards.

For more information about the requirements related to the certification and assurance options, including the meaning of "operational control," the requirement to have one-third of the agency's facilities audited by August 19, 2023, and the point at which audits are considered complete, please review the following FAQs:

- <https://www.prearesourcecenter.org/frequently-asked-questions/what-distinction-between-facility-under-operational-control-states>
- <https://www.prearesourcecenter.org/frequently-asked-questions/what-happens-agencys-three-year-audit-timeline-if-agency-fails-have>
- <https://www.prearesourcecenter.org/frequently-asked-questions/what-stage-audit-process-audit-considered-complete-purposes-meeting>

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<sup>3</sup> Additional information regarding BJA's JAG Program and PREA can be found here: [www.bja.gov/Programs/JAG-PREA-FAQ.pdf](http://www.bja.gov/Programs/JAG-PREA-FAQ.pdf).

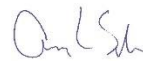
<sup>4</sup> Additional information regarding the OJJDP Program and PREA can be found here: <https://ojjdp.ojp.gov/states/Explanation-of-Formula-Grant-Distributions# Prison Rape Elimination>.

<sup>5</sup> Following each year's certification/assurance deadline, DOJ engages in a standard process to review certifications submitted by each state. As part of this review process, if DOJ identifies information that raises questions about or contradicts a Governor's certification submission, DOJ will send a notification detailing its findings and requesting additional information. DOJ's certification review process is intended to assist states in supporting and maintaining full PREA compliance.

DOJ guidance related to the meaning of the PREA Standards can be found on the FAQ page of the PREA Resource Center website at [www.prearesourcecenter.org/frequently-asked-questions](http://www.prearesourcecenter.org/frequently-asked-questions). Questions concerning PREA implementation, or the enclosed materials, should be emailed to the PMO at [PREACompliance@usdoj.gov](mailto:PREACompliance@usdoj.gov). Requests for PREA implementation training or technical assistance may be directed to the PREA Resource Center at <http://www.prearesourcecenter.org/request-for-assistance>.

DOJ looks forward to continuing to work together to implement the PREA Standards and combat sexual abuse and sexual harassment in confinement facilities in your state and across the nation. Thank you for your continued commitment to this important issue and for your state's ongoing efforts to promote and support implementation of the Standards.

Sincerely,



Amy L. Solomon  
Assistant Attorney General

Enclosures:

- PREA Certification Form
- PREA Emergency Assurance Form
- PREA Certification and Assurance Submission Instructions
- PREA Certification and Assurance Worksheet
- PREA Certification and Assurance Frequently Asked Questions
- PREA Compliance Checklist for External State Investigative Agencies: Prisons and Jails

cc: Governor's criminal justice policy advisor  
State administering authority for OJP grant programs  
Adult correctional administrator  
Juvenile correctional administrator  
Statewide PREA coordinator for adult facilities  
Statewide PREA coordinator for juvenile facilities  
Liz Ryan, Administrator, Office of Juvenile Justice and Delinquency Prevention  
Karhlton Moore, Director, Bureau of Justice Assistance