

June 29, 2022

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

RULE NOS.:RULE TITLES:

33-602.220 Administrative Confinement

33-602.222 Disciplinary Confinement

PURPOSE AND EFFECT: The proposed rule is intended to increase the safety, security, and good order of state correctional institutions by providing inmates greater access to kiosk and tablet services and removing items which pose institutional security concerns from a restrictive housing environment.

SUMMARY: Rules 33-602.220 and 33-602.222 are being amended to allow inmates in Administrative Confinement and Disciplinary Confinement to possess a tablet and have limited access to kiosk and tablet services. The changes also prohibit inmates in AC and DC from possessing Walkman-type radios, battery-operated razors, and batteries due to institutional security concerns associated with these items in a restrictive housing environment.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or, if no SERC is required, the information expressly relied upon and described herein: The Department used an itemized checklist to conduct an economic analysis and determine if there is an adverse impact or regulatory cost associated with this rule that exceeds the criteria. Upon review of the proposed changes to the rule, the Department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in s. 120.541(2)(a), F.S.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09, F.S.

LAW IMPLEMENTED: 20.315, 944.09, 944.241, 945.04, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Office of the General Counsel, Attn. FDC Rule Correspondence, 501 South Calhoun Street, Tallahassee, Florida 32399, FDCRuleCorrespondence@fdc.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.220 Administrative Confinement.

(1) through (4) No Change

(5) Conditions and Privileges.

(a) through (b) No Change

(c) Personal Property – except as otherwise stated herein, inmates shall be allowed to possess the same property as is permitted inmates in general population unless there is an indication that possession of such property poses a security risk, in which case removal or denial of any property shall be documented on Form DC6-229, Daily Record of Special Housing. An inmate in administrative confinement may ~~not~~ possess a tablet in accordance with Rule 33-602.900, F.A.C., and this rule. Inmates in administrative confinement may not possess a Walkman-type radio or batteries. Form DC6-220, Inmate Impounded Property List, designating what property was removed personal items were removed, shall be completed by security staff and signed by the inmate. The original shall be placed in the inmate's property file and a copy of the form shall be given to the inmate. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C. Inmates shall be allowed to possess religious items pursuant to the provisions of Rule 33-602.201, F.A.C. All property retained by the inmate must fit into the storage area provided.

(d) No Change

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(e) Personal Hygiene – inmates in administrative confinement shall meet the same standards regarding personal hygiene as required of inmates in general population.

1. No Change

2. Any male inmate who elects to be clean-shaven ~~clean-shaven~~ shall be clipper shaved three times per week. Any male inmate who elects to grow and maintain a half-inch beard shall have his beard maintained in accordance with Rule 33-602.101, F.A.C. The possession and use of shaving powder and battery-operated razors in administrative confinement is prohibited.

3. No Change

(f) through (q) No Change

(r) Inmates in administrative confinement are ~~not~~ permitted limited access to kiosks, kiosk services, or tablet services as provided for in Rule 33-602.900, F.A.C. Access shall be limited to free books and games, educational materials, programs, religious materials, incoming secure mail with attachments, wellness material, and scanned routine mail as defined in Rule 33-210.101, F.A.C.

(6) Restraint and Escort Requirements.

(a) through (e) No Change

(f) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate exhibits bizarre, mentally, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or self-harm observation ~~suicide watch~~ procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff can provide observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. Form DC4-650 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-12601>. The effective date of the form is 01/21. All actions taken by staff regarding special risk inmates shall be documented on Form DC6-229, Daily Record of Special Housing, and Form DC6-210, Incident Report. Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C.

(g) No Change

(7) through (10) No Change

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.241, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, 1-19-03, 4-1-04, 3-5-06, 10-31-06, 4-8-08, 6-25-08, 6-8-09, 7-5-10, 10-7-12, 3-6-14, 8-17-16, 1-18-21, 6-1-21, _____.

33-602.222 Disciplinary Confinement.

(1) through (3) No Change

(4) Conditions and Privileges.

(a) through (b) No Change

(c) Personal Property. Inmates in disciplinary confinement shall be allowed to retain stamps, eyeglasses, hearing aids, personal watches, and rings unless they pose a potential threat of harm to an individual or a potential threat to the security of the institution. Inmates in disciplinary confinement may also possess religious items pursuant to the provisions of Rule 33-602.201, F.A.C. Inmates in disciplinary confinement may ~~not~~ possess a tablet in accordance with Rule 33-602.900, F.A.C., and this rule. Inmates in disciplinary confinement may not possess a Walkman-type radio or batteries. If removal of any item in the inmate's possession is determined necessary, the correctional staff shall document their actions on the Form DC6-229, Daily Record of Special Housing, which shall be approved by the chief of security. The correctional staff shall issue the inmate a receipt for his or her confiscated items by completing Form DC6-220, Inmate Impounded Property List. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C. Inmates in disciplinary confinement shall not possess any products that contain baby oil, mineral oil, cocoa butter, or alcohol.

(d) No Change

(e) Personal Hygiene. Inmates in disciplinary confinement shall meet the following standards regarding

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personal hygiene:

1. No Change

2. Any male inmate who elects to be clean shaven ~~clean-shaven~~ shall be clipper shaved three times per week. Any male inmate who elects to grow and maintain a half-inch beard shall have his beard maintained in accordance with Rule 33-602.101, F.A.C. The possession and use of shaving powder and battery-operated razors in disciplinary confinement is prohibited.

3. No Change

(f) through (r) No Change

(s) Inmates in disciplinary confinement are ~~not~~ permitted limited access to kiosks, kiosk services, or tablet services as provided for in Rule 33-602.900, F.A.C. Access shall be limited to free books and games, educational materials, programs, religious materials, incoming secure mail with attachments, wellness material, and scanned routine mail as defined in Rule 33-210.101, F.A.C.

(5) through (6) No Change

(7) Visits to Disciplinary Confinement.

(a) through (b) No Change

(c) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate exhibits bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted by correctional staff to determine if special watch or self-harm observation ~~suicide watch~~ procedures should be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or medical staff can provide observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. Form DC4-650 is incorporated by reference in Rule 33-602.220, F.A.C. All actions taken by staff regarding special risk inmates shall be documented on Form DC6-229, Daily Record of Special Housing, and Form DC6-210, Incident Report. Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C.

(8) through (13) No Change

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.241 FS. History—New 3-12-84, Formerly 33-3.084, Amended 7-10-90, 4-28-96, 12-7-97, 3-23-99, Formerly 33-3.0084, Amended 2-12-01, 2-15-02, 4-1-04, 1-16-06, 10-31-06, 6-25-08, 6-8-09, 7-5-10, 3-6-14, 8-17-16, 1-18-21, 6-1-21, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Hope Gartman, Assistant Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ricky D. Dixon, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2022

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: February 10, 2022