

October 30, 2013

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.220

33-602.222

RULE TITLE: Administrative Confinement.

Disciplinary Confinement.

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update the definition of a major rule violations; to provide for documentation that an inmate was given the opportunity to contact expected visitors in the event the inmate is placed in administrative confinement; to provide that the Warden will visit certain inmates in disciplinary confinement; and to provide for updates to OBIS in certain circumstances.

SUMMARY: Rulemaking was initiated to update a definition; to provide for documentation that an inmate was given the opportunity to contact visitors when placed in administrative confinement; to provide that the Warden will visit inmates in disciplinary confinement; and to provide for updates to OBIS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The department has determined that this rule will not have an adverse impact on small business and is not expected to directly or indirectly increase regulatory costs more than \$200,000 within a year of taking effect. A SERC has not been prepared by the department. The department 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: 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), FS. Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09, FS

LAW IMPLEMENTED: 20.315, 944.09, 945.04 FS

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: Paul Vazquez, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.220 Administrative Confinement.

(1) Definitions.

(a)-(n) No change.

(o) Major rule violation – means any assault, battery or attempted assault or battery; any intentional lewd or lascivious exhibition in the presence of staff or visitors; any spoken or written threat towards any person; inciting or attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

(2) Procedure for Placement in Administrative Confinement.

(a) No change.

(b) When a decision is made to place an inmate in administrative confinement, the reason for such placement shall be explained to the inmate and the inmate shall be given an opportunity to present verbal comments on the matter. The inmate shall also be allowed to submit a written statement. Prior to placing the inmate in administrative confinement, the inmate shall be given a pre-confinement health assessment to include a physical and mental health evaluation that shall be documented in the health care record. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C. When an official places an inmate in administrative confinement, this action shall be documented in the electronic classification contact log in OBIS. This entry shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement and a summary of the inmate's comments. The reason must correspond with one of the criteria for placement provided in subsection (3) of this rule. This electronic entry shall be completed the same day the inmate is placed into confinement, and will establish the ICT 72-hour review appointment as well as document that a phone call was made on the inmate's behalf to his/her expected visitors if time does not permit contact by mail prior to the planned visit. Any written statements provided by the inmate shall be forwarded to the ICT for their consideration

during the forthcoming 72-hour review.

(c) No change.

(3)-(10) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 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,_____.

33-602.222 Disciplinary Confinement.

(1) Definitions.

(a) –(m)

(n) Offender Based Information System (OBIS) – refers to an electronic data system used by the Department of Corrections to record and retrieve offender information.

(2)-(6) No change.

(7) Visits to Disciplinary Confinement.

(a) The following staff members shall be required to officially inspect and tour the disciplinary confinement unit. All visits by staff, other than the 30 minute checks described in subparagraph 1. below, shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated in Rule 33-601.800, F.A.C. The staff member shall also document his or her visit on the Daily Record of Special Housing, Form DC6-229, if any discussion of significance, action or behavior of the inmate, or any other important information is obtained which may have an influence or effect on the status of confinement. These visits shall be conducted a minimum of:

1.-9. No change.

10. The SCO will visit every inmate housed in disciplinary confinement longer than sixty consecutive days, excluding close management inmates, ~~longer than sixty consecutive days~~ as frequently as necessary to ensure that the inmate's welfare is provided for and to determine if the inmate should be released.

(b) No change.

(8) Review and Release from Disciplinary Confinement.

(a)-(b) No change.

(c) If an inmate is housed for more than 60 days, the ICT shall interview the inmate and prepare a formal assessment and evaluation report after each consecutive 60 day period in disciplinary confinement. Such reports may be in a brief paragraph form on the Classification Contact Log in OBIS detailing the basis for confinement, what has transpired since the last report, the decision concerning continued disciplinary confinement, and the basis for that decision. Close management inmates in disciplinary confinement status are excluded from this formal assessment as the existing close management review process will include review of the inmate's disciplinary confinement status.

(d)-(e) No change.

(9)-(14) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09 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,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Upchurch, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael D. Crews, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 7, 2013