

September 3, 2013

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.230

RULE TITLE: Institution Visits and Tours and Inmate or Probationer Presentations and Programs for the Public

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to disallow people under the age of 18 from entering areas that are not common assembly areas during their tours and eliminating inmate presenters from the tours.

SUMMARY: The proposed changes restrict minors from entering certain areas during their tours, eliminate inmate presenters from the tours, and update the responsible bureaus/sections to correspond to the current organizational structure of the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency 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 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: upon review of the proposed changes to these rules, 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: 944.09, 944.23, 945.75 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: LaDawna Fleckenstein, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.230 Institution Visits and Tours ~~and Inmate or Probationer Presentations~~ and Programs for the Public.

(1) ~~Except as authorized in subsection (2) below, No~~ tours by persons under 18 years of age beyond a common assembly area such as the visiting park will be permitted. Student and Juvenile Offender Tour groups shall be assembled in this common area and given briefings by staff members and shown orientation/training videos. Inmates shall not participate in these orientation briefings.

(2) Juvenile Offender Tour Programs.

(a) Definitions.

1. No change.

2. Central Office Program Manager – where used herein, refers to the staff member in the Bureau of Classification Management ~~and Central Records~~ who coordinates the juvenile offender tour program with designated institutions and the Bureau of Security Operations.

3. No change.

~~4. Inmate Presenter—where used herein, refers to an inmate whose participation in the program is voluntary, who has met prescreening criteria outlined in this rule, and who has successfully completed training to provide juvenile offenders with an accurate and realistic account of prison life and the effects of incarceration.~~

4.5. Juvenile Offender – where used herein, refers to a youth not more than 17 years of age, but not less than 10 years of age, who is under court order to participate in a juvenile offender tour program.

5.6. Juvenile Offender Tour Program – refers to a program implemented by the Department of Corrections which provides Florida’s courts with an intervention program that discourages juvenile offenders from continuing a criminal lifestyle by providing the juvenile offender with a realistic look at prison life.

6.7. Outside Sponsor – where used herein, refers to an organization or agency working with a court to provide adult escorts for juvenile offenders participating in the juvenile offender tour program.

7.8. Tour Program Facilitator – where used herein, refers to the staff member at the institution who is responsible for supervising tours and coordinating tours in conjunction with the central office program manager.

(b) No change.

(c) Staff Responsibilities for the Juvenile Offender Tour Program.

1. The warden shall:

a. No change.

~~b. Based upon program activity, determine the number of inmate presenters who will participate in the program;~~

~~b.e. Ensure the selection of staff to participate in the program; and~~

~~c.d. Evaluate and approve or reject tour requests at least 20 days in advance of the proposed tour date.~~

Rejections shall be based on a determination that the tour is not in the best rehabilitative interests of the inmates incarcerated or that the tour will have an adverse impact on the security or orderly operation of the facility.

2. No change.

a. – c. No change.

~~d. Select and train inmate presenters;~~

~~d.e. Coordinate and provide orientation for participating staff;~~

~~e.f. Place a copy of the court order for each juvenile that directs the juvenile offender's participation in the program from the outside sponsor in a file that is to be maintained for three years;~~

~~f.g. Report scheduling and completion results of the tour to the central office program manager.~~

~~g.h. Ensure that all program guidelines are explained to the tour participants before allowing them entry into the compound;~~

~~h.i. Coordinate notification to the court of tour participants who are disruptive or inappropriately dressed.~~

3. No change.

a. – b. No change.

~~(d) Inmate Presenters.~~

~~1. Inmates who wish to volunteer as presenters for the juvenile offender tour program shall submit Form DC6-236, Inmate Request, to the tour program facilitator. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.~~

~~2. In order to be selected as an inmate presenter, an inmate must:~~

~~a. Be free of disciplinary reports for a minimum of six months;~~

~~b. Not be a certified or non-certified security threat group member;~~

~~c. Be close custody or lower;~~

~~d. Not have been in close management in the last 24 months; and~~

~~e. Not have a history of serious disciplinary reports or sex offense convictions.~~

~~3. Inmate presenters shall receive at least four hours of training concerning presentation content. Inmate~~

~~presenters shall receive instruction on and are expected to demonstrate an understanding of and a positive attitude towards the purpose and goals of the tour program. Inmate presenters will be trained that they will not:~~

~~a. Use profanity, obscenities, individual confrontation, intimidation, or physical contact with tour participants, (“Scared Straight” techniques will not be used.)~~

~~b. Exercise any control or authority over any tour participant,~~

~~c. Remove their own nor tour participant’s clothing,~~

~~d. Exchange personal information such as home addresses or telephone numbers with any tour participant,~~

~~e. Give to or receive anything from tour participants, or~~

~~f. Use any tobacco products.~~

~~4. Inmate presenters shall:~~

~~a. Wear uniforms that are clean, properly fitted, and in good repair,~~

~~b. Maintain proper grooming in accordance with department rules, and~~

~~c. Use courtesy in all their dealings with tour participants and adult escorts.~~

~~(d)(e) Tours.~~

~~1. – 2. No change.~~

~~(e)(f) Upon tour approval, the tour program facilitator shall advise the outside sponsor in writing of the expectations and requirements of this rule, including the following:~~

~~1. – 2. No change.~~

~~(f)(g) The outside sponsor shall be responsible for taking corrective action against disruptive participants.~~

~~Unresolved situations shall result in the disruptive participants being removed from the tour. If necessary, the tour shall be terminated.~~

~~(g)(h) The tour program facilitator shall, not later than two workdays following completion of the tour, report tour scheduling and completion results to the central office program manager.~~

~~(3) – (5) No change.~~

~~(6) The warden shall not discriminate on the basis of race, creed, color or national origin, but otherwise may deny a requested tour for any reason where approval would cause not be in the best rehabilitative interest of the inmates incarcerated or there would be the possibility of an adverse impact on the security and orderly operation of the facility.~~

(7) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09, 944.23, 945.75 FS. History—New 10-16-83, Formerly 33-5.12, Amended 7-27-89, 3-8-98, Formerly 33-5.012, Amended 4-25-02, 7-2-03,_____.

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: 8-29-13

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 8-16-13