

March 23, 2018

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-601.722 Visiting Schedule

PURPOSE AND EFFECT: To clarify the Department's visitation schedule; when unusual circumstances will be authorized to grant additional visiting hours for regular or special visitors; and circumstances that would require the Secretary to approve or disapprove an institutional or statewide visitation schedule change. The amendments shall improve the security and safety of the inmate, visitor, and staff; reduce the contraband being introduced into the institutions; provide the opportunity for additional visitation during unusual circumstances; and minimize the disruption of regularly established visitation.

SUMMARY: The rule clarifies the Department's visitation schedule as a privilege that requires consideration of security and safety issues when coordinating visits for inmates; establishes a minimum number of days and hours an inmate shall receive each month, subject to any disciplinary sanctions imposed for inmate misconduct; and clarifies the criteria to be considered before changes to visiting schedule are implemented by the Secretary or requested by a particular institution.

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: 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

Any person who wishes to provide information regarding a 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, FS.

LAW IMPLEMENTED: 944.09, 944.151, 944.23, 944.47 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gregory Hill, Assistant General Counsel, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.722 Visiting Schedule.

(1) The Department, when establishing the regular visitation schedule, as provided in this rule, shall consider the following criteria:

- (a) Institutional security;
- (b) Institutional staffing abilities/shortages;
- (c) Safety and security of inmates, visitors, and staff;
- (d) Visiting park capacity;
- (e) Quantity of visitation requests, and
- (f) Frequency of introduced contraband.

(2)(1) An inmate's Regular visitor(s) shall be allowed to visit at established intervals between the hours of 9:00 a.m. and 3:00 p.m. Eastern Standard Time (EST) – 8:00 a.m. and 2:00 p.m. Central Standard Time (CST) on each Saturday, and Sunday and/or during a legal holiday as identified in sub-paragraph (e)1 – 9 of this rule.

(a) “Established intervals” shall be determined based upon institutional security, capacity (e.g., fire marshall restrictions), demand, and the availability to staff the visitors park while providing for the safety of inmates, visitors, and staff.

(b) Inmates shall be provided, subject to any disciplinary sanctions that may be imposed, a minimum

of two days per month consisting of no less than two hours each, during which time they are permitted to visit.

~~(c)(a)~~ Institutions shall initiate the visiting registration process at 8:15 a.m. (EST) and 7:15 a.m. (CST). To better facilitate the registration process, visitors will be allowed to park in designated spaces no earlier than 7:30 a.m. (EST) and 6:30 a.m. (CST).

~~(d)(b)~~ Visitors shall not be processed after 2:00 p.m. (EST) and 1:00 p.m. (CST) unless authorized by the duty warden.

~~(e)(e)~~ Regular visiting shall occur on the following holidays:

1. New Year's Day;
2. Birthday of Martin Luther King, Jr., third Monday in January;
3. Memorial Day;
4. Independence Day;
5. Labor Day;
6. Veteran's Day, November 11;
7. Thanksgiving Day;
8. Friday after Thanksgiving; and
9. Christmas Day.

~~(f)(d)~~ If any of the holidays listed in paragraph ~~(e)(e)~~ above falls on Saturday, the preceding Friday shall be observed as a holiday. If any of these holidays falls on Sunday, the following Monday shall be observed as a holiday.

(3) Where unusual circumstances occur, the warden or his/her designee shall be authorized to allow an inmate additional visiting hours for a ~~regular or special visitor~~ as set forth in Rule 33-601.736. The exception will be based on factors such ~~factors~~ as great travel distance, infrequency of visits, or death of immediate family member.

~~(3) The secretary or his designee shall approve or disapprove any request for changes to visiting hours or days.~~

(4) In addition to the criteria set forth in paragraph (1), the Secretary or his/her designee shall retain the authority to change the visiting hours or days when one or more criteria set forth in sub-paragraph

(5)(b)1-5 exists.

(5) The Secretary or his/her designee shall approve or disapprove any request submitted by the Office of Institutions for any change to visiting hours or days.

(a) Any requested change, whether institutional or statewide, shall be made in writing and provide the Secretary, or his/her designee, with sufficient information, data, or criminal intelligence to make a determination on whether to approve or deny the request.

(b) The bases for the requested change shall include any one of the following circumstances:

1. An imminent, current, or immediate aftermath of a disturbance, uprising, strike, or riot.

2. Staffing limitations that pose a potential threat to the safety and security of the inmates, visitors, and/or staff.

3. An institution experiencing an influx of contraband.

4. A declared emergency.

5. Arising prior to, during, or in the aftermath of a natural disaster.

6. Medically related issues that pose a potential health threat.

7. Any other extraordinary circumstance that poses a potential threat to the security or safety of the institution, the inmate population, staff or public.

Rulemaking Authority 944.09 FS. Law Implemented 944.09, 944.151, 944.23, 944.47 FS. History--New 11-18-01, Amended 5-5-05, 10-12-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: John McLaughlin, Chief of Classification Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie L. Jones, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2018

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: February 27, 2018