

April 26, 2013

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-203.201

RULE TITLE: Inmate Trust Fund

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to reduce Department costs by eliminating the requirement that an inmate receive a receipt when funds are deposited into that inmate's trust account, to reflect that a vendor will be processing deposits and that funds for deposit into an inmate's trust account should be mailed to the vendor, and to allow for funds to be deposited onto an inmate's release gratuity debit card upon release.

SUMMARY: The proposed rule will reduce Department costs by eliminating the requirement that inmates be given receipts for deposits, changes where funds should be mailed for deposit into inmate trust accounts, and allows for funds to be deposited onto an inmate's release gratuity debit card.

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 and incorporated forms, 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, 944.516, 945.091, 945.215 FS

LAW IMPLEMENTED: 17.61, 57.085, 717.113, 944.09, 944.516, 945.091, 945.215 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:

33-203.201 Inmate Trust Fund.

(1) The following are the policies of the department with respect to money received for the personal use or benefit of inmates:

(a) – (e) No change.

(f) Interest earned on these investments and on the central Inmate Trust Fund ~~Public Funds Interest~~ Checking Account or any local accounts shall be deposited to the General Revenue Fund.

(g) – (h) No change.

(2)(a) All monies (cashiers checks, money orders, or certified bank drafts only; no cash or personal checks allowed) shall be that are mailed pursuant to the instructions provided on Form DC2-363, Money Order Deposit Form For Inmate Deposits, and to the Bureau of Finance and Accounting, Inmate Trust Fund Section, for an inmate shall be initially deposited into in the Inmate Trust Fund. Form DC2-363 is hereby incorporated by reference. This form may be obtained from any institution, facility, the vendor listed on Form DC2-363, the Bureau of Finance and Accounting, Inmate Trust Fund Section, Centerville Station, P.O. Box 12100, Tallahassee, Florida 32317-2100 or the Forms Control Administrator, Office of Research, Planning and Support Services, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is 7-13. Funds must be mailed with the completed Form DC2-363, Money Order Deposit Form For Inmate Deposits, ~~deposit form~~ and made payable to the vendor listed on Form DC2-363 Inmate Trust Fund and include the inmate's name and DC number. ~~Once the deposit is posted to the inmate's account, a receipt will be printed at the institution and provided to the inmate.~~ Funds will become available for the inmate's use within ten working days after receipt by the vendor listed on Form DC2-363 Bureau of Finance and Accounting, Inmate Trust Fund Section, in Tallahassee. Every effort shall be made to have funds available sooner. Any money order, cashiers check, or certified bank draft in the amount of \$400 or higher posted to an inmate's account will have a ten day hold placed on the funds. After ten days the funds will be available for the inmate's use. Deposits mailed to institutional or other Department addresses including other than the Bureau of Finance and Accounting, Inmate Trust Fund Section will be returned to the sender. ~~In order to deposit the funds the sender shall complete Form DC2 303, Inmate Trust Fund Deposit Form. Form DC2 303 is hereby incorporated by reference. This form may be obtained from any institution, facility, or by requesting in writing from the Bureau of Finance and Accounting, Inmate Trust Fund Section, Centerville Station, P. O. Box 12100, Tallahassee, Florida~~

~~32317-2100, or the Forms Control Administrator, Office of Research Planning and Support Services, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is July 13, 2003. Do not include any letters or notes with your payments, these will be discarded. Other items found in the incoming mail will be returned to the sender and will not be forwarded to the inmate.~~

(b) In accordance with 38 U.S.C. 5301, Veterans Administration (VA) benefit checks are exempt from attachment, levy or seizure. The Department shall not place liens on the inmate's trust fund account for medical co-payments, legal copies, or other Department generated liens for VA benefits checks mailed directly to the Bureau of Finance and Accounting, Inmate Trust Fund Section, Centerville Station, P.O. Box 12100, Tallahassee, FL 32317-2100.

(c) – (d) No change.

(3)(a) Inmates with sufficient balances in their individual Inmate Trust Fund accounts shall be allowed to spend an amount set by the Secretary not to exceed \$100 a week at the institution's canteen for personal use. Inmates on work release with sufficient balances in their individual Inmate Trust Fund accounts shall be allowed to request a weekly draw set by the Secretary not to exceed \$100 to be expended for personal use. In order to request an expenditure of funds in excess of the authorized canteen limit or weekly draw, the inmate shall complete Form DC2-304, Inmate Trust Fund Special Withdrawal. Form DC2-304 is hereby incorporated by reference. This form may be obtained from any institution or facility or ~~from the Bureau of Finance and Accounting, Inmate Trust Fund Section, 1711 Mahan Drive, Tallahassee, Florida 32308~~ or from the Forms Control Administrator, Office of Research, Planning and Support Services, Department of Corrections, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is September 2, 2008. If the withdrawal is for the purpose of making a deposit to a personal account with a private financial institution in the inmate's name, the check drawn upon the Inmate Trust Fund shall be made payable to the private financial institution which has been chosen by the inmate, with the inmate as a reference, and shall be mailed to the private financial institution. If an inmate requests a copy of a cancelled check or requests to stop payment on a check, the inmate shall be responsible for the fees charged to process these transactions. Requests for special withdrawals submitted without the required signatures or on other than the approved form will be returned to the inmate without processing. Inmates wishing to send funds to inmates at other institutions must obtain approval from the wardens at both institutions.

(b) No change.

(4) No change.

(5) When an inmate is released from the control of the Department, and his or her inmate trust account balance exceeds \$1.00, the inmate's balance in the Inmate Trust Fund at the time of discharge shall be downloaded to the inmate's release gratuity debit card or mailed by check by the Bureau of Finance and Accounting, Inmate Trust Fund Section, within 45 days of the inmate's release to the address provided by the inmate during the release process. However, if deposits of checks, money orders or other negotiable instruments have been made to the inmate's account but have not cleared the account of the payer by the time the inmate is discharged, funds equal to the amount of the uncleared deposits shall be retained in the inmate's trust fund account. Immediately after the deposits have cleared, the balance due the inmate shall be downloaded to the inmate's release gratuity debit card or a check forwarded by mail to the inmate. Inmates being released will be provided with cash or a debit card for travel and related expenses. For inmates who meet eligibility requirements set forth in Rule 33-601.502, F.A.C., this money shall be in the form of a discharge gratuity. For inmates who are not eligible for discharge gratuities, a hold will be placed on the inmate's trust account and any remaining account balance shall be forwarded as indicated above. Pursuant to Section 717.113, F.S., in the event that funds are unclaimed after a period of one year, the balance shall escheat to the state as unclaimed funds held by a government agency.

(6) – (12) No change.

Rulemaking Authority 944.09, 944.516, 945.091, 945.215 FS. Law Implemented 17.61, 20.315(12), 57.085, 717.113, 944.09, 944.516, 945.091, 945.215 FS. History--New 1-27-86, Amended 7-16-89, 5-1-90, 3-2-92, 6-2-92, 8-25-92, 10-19-92, 4-13-93, 5-28-96, 6-15-98, Formerly 33-3.018, Amended 5-7-00, 7-13-03, 10-20-03, 1-23-05, 5-12-05, 11-12-06, 9-2-08, 5-26-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Deariso, Bureau Chief, Bureau of Finance and Accounting

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 4-23-13

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 2-20-13