

May 26, 2017

## NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.731, 33-601.732

RULE TITLE: Suspension of Visiting Privileges, Reinstatement of Visiting Privileges

PURPOSE AND EFFECT: The purpose and effect is to amend Rules 33-601.731 and 33-601.732 to make several clarifications to the inmate visitation rules in regards to the suspension and reinstatement of privileges. Additionally, revisions are made to Form NI1-102 which denotes the length of time visiting privileges may be suspended for certain offenses.

SUMMARY: Clarification to the rules include: (a) requires the ICT to temporarily suspend visiting privileges pending the outcome of an investigation into delineated violations, (b) removes mandatory consideration of indefinite suspension when an inmate is found guilty of certain rule violations, (c) eliminates the limitation of concurrent suspension terms, (d) designates the regional director as the final reviewing authority for all indefinite suspensions where the warden served as the suspending authority, and (e) updates Form NI1-102, Visiting Privileges Suspension Matrix.

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, 944.115 FS

LAW IMPLEMENTED: 944.09, 944.115, 944.23, 944.47, 944.8031 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: Gregory Hill, Assistant Regional Counsel, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.731 Suspension of Visitation Privileges.

(1) Suspension of Inmate Visiting Privileges.

(a) through (b) No Change

(c) The ICT shall temporarily suspend the visiting privileges of any inmate subject to a pending investigation for escape, attempted escape, or possession of escape paraphernalia until the investigation is complete. If the inmate is found guilty, the ICT shall consider ~~indefinite~~ suspension of the inmate's visiting privileges pursuant to paragraph (1)(b) of this rule. If the inmate is not found guilty, the ICT shall immediately reinstate the inmate's visiting privileges.

(d) If an inmate is found guilty of an offense listed in paragraph (1)(b), the ICT shall suspend the inmate's visiting privileges for the length of time specified on Form NI1-102, Visiting Privileges Suspension Matrix, <http://www.flrules.org/Gateway/reference.asp?No=XXXXXX> Form NI1-102 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is XX-XX. If an inmate's visiting privileges are suspended pursuant to this rule and the inmate receives a subsequent guilty finding for one of the offenses listed in paragraph (1)(b), the inmate is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of a guilty finding for the same offense, the inmate's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, ~~not to exceed a total of one year from the time of the subsequent offense.~~

2. If the subsequent offense is different from the previous offense, the inmate's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, ~~not to exceed a total of one year from the time of the subsequent offense.~~

(e) through (f) No change

(2) Suspension of Visitor Visiting Privileges.

(a) No change

(b) A visitor's visiting privileges shall be suspended by the warden or designee when the visitor:

1. through 4. No change

5. Falsifies information to obtain visiting privileges, including ~~falsification~~ falsification of guardianship documents, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertant or good faith mistake, omission, or clerical error.

6. No change.

(c) If a visitor is determined to have committed an offense listed in paragraph (2)(b), the warden or designee shall suspend the visitor's visiting privileges for the period of time specified on Form NI1-102, Visiting Privileges Suspension Matrix. If a visitor's visiting privileges are suspended pursuant to this rule and the visitor subsequently commits one of the offenses listed in paragraph (2)(b), the visitor is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of the commission of the same offense, the visitor's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, ~~not to exceed a total of two years from the time of the subsequent offense.~~

2. If the subsequent offense is different from the previous offense, the visitor's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, ~~not to exceed a total of two years from the time of the subsequent offense.~~

(3) No change.

(4) The regional director acts as the final reviewing authority for all indefinite suspensions in which the warden was the suspending authority of a visitor's visiting privileges. The regional director's decision shall be recorded in the department's electronic inmate database.

~~(5)~~(4) Temporary suspensions. The Inspector General's Office is authorized to temporarily suspend the visiting privileges of an approved visitor who is involved in or is the subject of an ongoing investigation pending the outcome of the investigation.

Rulemaking Authority 944.09, 944.115 FS. Law Implemented 944.09, 944.115, 944.23, 944.47, 944.8031 FS.  
History—New 11-18-01, Formerly 33-601.707, 33-601.708, Amended 5-27-02, 9-29-03, 10-4-07, 1-8-09, 10-23-11,  
9-24-12, 12-9-12, 6-18-13, 11-4-14,\_\_\_\_\_.

33-601.732 Reinstatement of Suspended Visiting Privileges.

(1) No change.

(2) The warden or designee shall approve or deny requests for reinstatement of a visitor's suspended visiting privileges. The visitor, or inmate on behalf of the affected visitor, shall submit a written request for reinstatement of privileges to the assigned institutional classification officer. The visitor for whom the reinstatement is being considered shall submit a Request for Visiting Privileges, Form DC6-111A, if the suspension has been for longer than six months.

(a) through (c) No change.

(d) The warden or designee shall consider the following factors in considering whether ~~an~~ visitor's inmate's visitation privileges shall be reinstated:

1. through 2. No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History—New 11-18-01,  
Amended 5-27-02, 9-29-03, 2-13-12, 9-24-12,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Comerford, Assistant Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie Jones, Secretary of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 10, 2017