

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-602.211 Restraint of Pregnant Inmates

PURPOSE AND EFFECT: Rulemaking is necessary to amend existing rules to establish processes and procedures related to the placement of pregnant inmates in restrictive housing in accordance with § 944.241, F.S., as amended by the Florida Legislature in 2020.

SUMMARY: The proposed rule is intended to provide processes and procedures for placement of pregnant inmates in restrictive housing.

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: The Department used an itemized checklist to conduct an economic analysis and determine if there is an adverse impact or regulatory cost associated with this rule that exceeds the criteria. 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), F.S.

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, 944.241, FS.

LAW IMPLEMENTED: 944.241, FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Lauren Sanchez, Paralegal Specialist, 501 S. Calhoun Street, Tallahassee, FL 32399 (850)717-3610, lauren.sanchez@fdc.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jason Holman, Assistant General Counsel, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, Jason.Holman@fdc.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.211 Restraint of Pregnant Inmates.

(1) Definitions.

(a) through (b) No change.

(c) Senior correctional officer: refers to a staff member with the rank of correctional officer lieutenant or above.

(d)(e) Third trimester: refers, for the purposes of this rule, to the period of time from the start of the 28th week of pregnancy.

(2) through (9) No change .

(10) Miscellaneous.

(a) When a pregnant inmate is placed in Medical Isolation, a Medical Housing Unit, or the Infirmary, to protect the health and safety of the pregnant inmate or others, or to preserve the security and order of the institution, the senior correctional officer or above must make a report utilizing Form DC6-1016, Report of Placement in Restrictive Housing for Pregnant Inmates (MEDICAL), clearly stating the following:

1. The individualized reason restrictive housing is necessary;

2. The reason less restrictive means are not available; and,

3. Whether a qualified healthcare professional at the correctional institution objects to the placement.

A copy of the report must be provided to the pregnant prisoner within 12 hours after placement in a Medical Isolation, a Medical Housing Unit, or the Infirmary. Form DC6-1016 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>. The effective date of the form is XX/XX.

Rulemaking Authority 944.09, 944.241 FS. Law Implemented 944.241 FS. History—New 9-24-12, Amended 1-10-18,

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mark S. Inch, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 18, 2021

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: February 26, 2021