

September 9, 2014

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.230

RULE TITLE: Institution Visits and Tours and Programs for the Public

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is terminate the Department's Juvenile Offender Tour Program due to the repeal of s. 945.75, Florida Statutes.

SUMMARY: The proposed rule removes language related to the Juvenile Offender Tour Program due to the repeal of s. 945.75, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE

RATIFICATION: The Department 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 Department. The Department has determined that the proposed rule is not expected to require legislative ratification based on the SERC 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 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: Paul Vazquez, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.230 Institution Visits and Tours and Programs for the Public.

~~(1) 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. Adult Escorts—where used herein, refers to outside sponsors 18 years of age or older who will accompany juvenile participants during the juvenile offender tour program.~~

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

~~3. Designated Institutions—where used herein, refers to institutions designated by the secretary or his designee to provide the juvenile offender tour program in all four regions, thereby ensuring accessibility to juvenile offenders statewide.~~

~~4. 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. 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. 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. 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) All tour requests from outside sponsors shall be in writing and shall be routed to the warden. A copy of the court order directing the participation of each juvenile offender shall be attached to the request.~~

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

~~1. The warden shall:~~

~~a. Designate a staff member as the tour program facilitator;~~

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

~~c. 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 will have an adverse impact on the security or orderly operation of the facility.~~

~~2. The institutional tour program facilitator shall:~~

~~a. Prior to submitting the tour request to the warden, conduct an NCIC/FCIC background check on any outside sponsor or adult escort who is not an employee of a state agency or a member of law enforcement. Information regarding any background check that reflects a misdemeanor or felony arrest or conviction for a proposed outside sponsor or adult escort shall accompany the tour request submitted to the warden for his or her decision as to whether or not to grant entry to the institution.~~

~~b. Subsequent to the warden's approval of the tour, function as the primary contact point with the courts, outside sponsors, and the central office program manager.~~

~~c. Ensure that all requirements of this rule are met, including:~~

~~I. Providing necessary supervision;~~

~~II. Advising outside sponsors of the guidelines contained in the rule;~~

~~III. Ensuring that department personnel are physically present during the tour, presentation or program, along with the outside sponsor; and~~

~~IV. Answering questions from the group.~~

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

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

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

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

~~3. The central office program manager shall:~~

~~a. Maintain liaison with the Bureau of Security Operations regarding safety and security issues in the administration of the juvenile offender tour program;~~

~~b. Establish and maintain a database of institutions approved by the secretary to conduct tours, designated tour program facilitators, and statistical results of tours.~~

~~(d) Tours.~~

~~1. Tour groups shall be limited to no more than 15 tour participants, not including sponsors and escorts.~~

~~2. Outside sponsors shall provide one adult escort of the same sex for every six or less tour participants.~~

~~(e) 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. Tour participants shall not be admitted if wearing inappropriate attire which includes:~~

~~a. Halter tops or other bra-less attire,~~

~~b. Underwear type tee shirts,~~

~~c. Tank tops or shorts,~~

~~d. Fishnet shirts or swimsuits,~~

~~e. Skin tight clothing or spandex clothing,~~

~~f. Clothes made with see-through fabric (unless a non-see-through garment is worn underneath),~~

~~g. Dresses or skirts more than three inches above the knee, or~~

~~h. Any article of clothing with a picture or language which presents a potential threat to the security or order of the institution.~~

~~2. Tour participants shall not be permitted the following:~~

~~a. Excessive jewelry,~~

~~b. Radios,~~

~~c. Cell phones or pagers,~~

~~d. Cameras or recording devices,~~

~~e. Purses,~~

~~f. Pocket knives,~~

~~g. Fingernail clippers,~~

~~h. Money, or~~

~~i. Prescription medications, except:~~

~~I. Only the dosage necessary for the tour period shall be allowed;~~

~~II. The medication shall be in its original prescribed container; and~~

~~III. Needles and syringes shall be left in the tour participant's locked transportation vehicle.~~

~~(f) 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) 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.~~

~~(1)(3)~~ Individuals or groups of individuals desiring a tour of a correctional facility will submit a formal request to the warden outlining the following:

(a) – (d) No change.

~~(2)(4)~~ Requests will be submitted to the warden of the facility to be toured as far in advance of the desired tour as possible so there will be sufficient time for review, approval, schedule adjustments and notification.

~~(3)(5)~~ Prior to any group touring a Department facility there shall be an orientation session conducted by a member of the facility staff. The orientation session shall consist of presentation of information and rules concerning the facility, the manner in which the tour will be conducted, the importance of an accurate count procedure, matters related to contraband, the importance of remaining with the group, limitations upon interactions with the inmate population, and other security matters. Any member of the group failing to adhere to the rules established for the tour shall be removed from the tour.

~~(4)(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 an adverse impact on the security and orderly operation of the facility.

~~(5)(7)~~ The following guidelines shall be adhered to in conducting tours, in making presentations and in providing programs for the public.

(a) No change.

(b) Those outside visitors who are approved to participate in tours of department facilities or programs at various department locations shall be 18 years of age or older, ~~except when the tour, program or presentation is specifically conducted for juveniles under court order as provided in subsection 33-602.230(2), F.A.C.~~

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, 10-22-13, _____.

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: September 1, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 23, 2104