

November 15, 2017

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-501.301

RULE TITLE: Law Libraries

PURPOSE AND EFFECT: The purpose of the rule and Form DC5-152 changes are to eliminate confusing and redundant language in light of the switch to digital library services that include Shephard's legal research services.

SUMMARY: The proposed rulemaking eliminates language and reference to obsolete services, Shepard's case citation services that are no longer provided. Form DC5-152 is updated to reflect the removal of obsolete services.

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.

SUBJECT AREA TO BE ADDRESSED: Law Libraries

RULEMAKING AUTHORITY: Rulemaking Authority 944.09, 944.11 FS.

LAW IMPLEMENTED: 944.11, 944.292 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Gregory Hill, 501 South Calhoun Street, Tallahassee, Florida 32399.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-501.301 Law Libraries.

(1) through (6)(a)2. No change.

(6)(a)3. If the law library does not have the information that the inmate has requested, then within 2 working days of receipt, not including the day of receipt, the law library supervisor shall forward the request to an institutional law library that has the requested information. If no institutional law library has the requested information, the law library supervisor shall process the request as provided in paragraph (6)(b)(e).

~~(b) Inmates shall have interlibrary loan access to case citation checking publications that permit users to trace the status of a court decision over time or to identify related court decisions. At least one law library in each region shall have current subscriptions to state and federal case citation checking publications. Inmates shall secure access to case citation checking by submitting Form DC5-152, Law Library Interlibrary Loan Request, to the law library supervisor. Within 2 working days of receipt, not including the day of receipt, the law library supervisor shall forward the request to the appropriate law library. On receipt, the law library supervisor shall immediately assign an inmate law clerk to provide the requested information. Requests involving court deadlines shall be handled as provided in paragraph (3)(f).~~

(b) (e) Inmate requests to secure law materials not in the department's law libraries shall be submitted to the library services administrator for review and approval. Only requests for primary source material shall be approved.

1. Inmates needing such materials are to submit Form DC5-152, Law Library Interlibrary Loan Request, to the institution's law library supervisor. Form DC5-152, is to include the full and complete citation of the material needed and a written justification on why the material is needed. If any deadlines apply, the date of the deadline is to be noted on Form DC5-152. The law library supervisor is then to forward the request to the library services administrator in the central office. The correct mailing address is: Department of Corrections, Attention: Library Services, 501 South Calhoun, Tallahassee, FL 32399-2500.

2. The library services administrator or designee shall review the request and either approve it or disapprove it. If the request is disapproved, the reason for disapproval will be noted on the request and the request shall be returned to the requesting law library. The law library supervisor will provide a copy of Form DC5-152, Law Library Interlibrary Loan Request, to the inmate. If the request is approved, the request shall be forwarded to the Florida State University law library for completion. When the completed work is received from the Florida State University law library, it shall be mailed to the requesting law library. The law library supervisor will provide a copy of Form DC5-152 and the requested material to the inmate.

~~(c)(d)~~ Inmates with deadlines imposed by law, court rule, or court order shall be given priority in the handling of interlibrary loan requests, and such requests shall be submitted separately from requests not involving deadlines.

~~(d)(e)~~ Material received pursuant to an interlibrary loan request is the property of the law library and not the personal property of the inmate who requested it. The material shall not be removed from the law library without the written approval of the law library supervisor.

~~(e)(f)~~ No limits shall be placed on the number of requests for interlibrary loan service submitted by inmates. However, inmates in confinement and other special management housing shall be limited to possession of no more than 15 items at a time.

(7) through (10) No change.

(11) Forms. The following forms are hereby incorporated by reference. A copy of ~~each any of these~~ forms is available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500 or at the link provided below:

(a) Form DC5-152, Law Library Interlibrary Loan Request, effective ~~6-16-09~~_____.
<http://www.flrules.org/Gateway/reference.asp?No=XXXXX> Ref

(b) Form DC5-153, Personal Legal Papers Authorization, effective 12-23-03.
<http://www.flrules.org/Gateway/reference.asp?No=XXXXX> Ref

Rulemaking Authority 944.09, 944.11 FS. Law Implemented ~~20-315, 944.09, 944.11, 944.292~~ FS. History—New 4-6-93, Amended 7-3-94, 11-2-94, 4-28-96, 9-30-96, 12-7-97, Formerly 33-3.0055, Amended 2-15-01, 11-4-01, 12-23-03, 1-7-07, 1-6-09, 6-16-09, 4-19-10, 9-23-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Abraham Uccello, Director of Development

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 3, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 19, 2017