

December 12, 2013

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.208

RULE TITLE: Social Networks

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to expressly disallow inmates from establishing or maintaining an internet presence on any social network website.

SUBJECT AREA TO BE ADDRESSED: The use of social networks by inmates.

RULEMAKING AUTHORITY: 944.09 FS

LAW IMPLEMENTED: 944.09 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 REGISTER.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.208 Social Networks.

(1) No inmate shall create or maintain, or consent to a third-party creating or maintaining, any presence on a social network during their period of incarceration.

(a) A social network is defined as a website or electronic application which permits users to form virtual communities of common interest, and permit users to do one or more of the following:

1. Share media content including text, video, or pictures;
2. Send and receive personal messages; or
3. Display relationships or connections with other individuals, groups, or associations.

(b) Examples of social networks prohibited by this rule include Facebook, Twitter, Instagram, Tumblr, Vine, MySpace, LinkedIn, Pintrest, as well as pen pal and dating websites. This list is not exhaustive.

(c) A presence is defined as an account or website that was created or maintained by an inmate or on the inmate's behalf. An inmate is not considered to have a presence on a social network when a third party references an inmate on their own independent account that was not created or maintained on behalf of that inmate.

(2) Inmates who create an internet account or have a presence created with the assistance of third-party shall be subject to disciplinary action in accordance with Rules 33-601.301-.314, F.A.C. If an inmate alleges that a presence on a social network was created without his assistance or permission or that the presence was created during his incarceration, but before this restriction became effective, it is the responsibility of the inmate to request that the presence be removed by submitting a written request, within 10 days, on Form DC6-XXX, Request to Deactivate Account, requesting the provider of the social network suspend or remove the presence or profile. Form DC6-XXX is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is . If a presence on a social network was created without the inmate's knowledge and the inmate subsequently becomes aware of it, it is the responsibility of the inmate to request that the account or presence be removed by submitting a written request, within 10 days, on Form DC6-XXX, Request to Deactivate Account, requesting the provider of the social network suspend or remove the presence or profile. Inmates can get copies of Form DC6-XXX from their classification officer and must submit Form DC6-XXX to their classification officer when requesting deactivation of an account. No inmate shall be subject to discipline if the presence is not removed subsequent to submission of Form DC6-XXX provided that the inmate continues to submit Form DC6-XXX every 60 days until the presence is suspended or removed. An inmate shall not be subject to disciplinary action for having a presence on a social network that was created prior to his incarceration and that since his incarceration has not been maintained or updated.

(3) If staff become aware of an inmate's presence on a social network they can initiate deactivation of the account by completing Form DC6-XXX, Request to Deactivate Account, even if the inmate does not consent to the account's deactivation.

(4) It shall not be considered a violation of this rule for inmates participating in a community release program under Rule 33-601.602, F.A.C., to have an email address for work purposes. The inmate shall provide the email address, user name, and password to his classification officer for documentation in his inmate file. Email addresses for work purposes must:

1. Be used for the purpose of submitting applications for employment and to respond to inquiries about possible employment from potential employers; and/or

2. The use of an email address is required by an employer as a condition of employment, provided the inmate only make such use as is required by the employer and is made in a manner that follows the employer's policy on email use.

(5) An inmate shall not be disciplined for information or profiles posted about the inmate by any federal, state, or local government agency or any political subdivision thereof. An inmate shall not complete Form DC6-XXX, Request to Deactivate Account, to remove any such presence.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New _____.