

November 28, 2023

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-210.202 Facility Requirements for Correctional Institutions

PURPOSE AND EFFECT: Rulemaking is mandatory pursuant to section 553.865(16), Florida Statutes. The proposed rule creates a uniform process for correctional institutions and facilities to document compliance with sections 553.865(4) and (5), Florida Statutes.

SUMMARY: The proposed rule implements section 553.865(12), Florida Statutes, which requires each state correctional institution or private correctional facility to document that it maintains at least one restroom for exclusive use by females and one for exclusive use by males or at least one unisex restroom and (if applicable) at least one changing facility for exclusive use by males and one changing facility for exclusive use by females or at least one unisex changing facility.

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, 533.865(16), F.S.

LAW IMPLEMENTED: 553.865(12), F.S.

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: Office of the General Counsel, Attn. FDC Rule Correspondence, 501 South Calhoun Street, Tallahassee, Florida 32399, FDCRuleCorrespondence@fdc.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-210.202 Facility Requirements for Correctional Institutions.

(1) Pursuant to section 553.865(4), Florida Statutes, each state correctional institution or private correctional facility must maintain, at a minimum:

(a) at least one restroom designated for exclusive use by females and at least one restroom designated for exclusive use by males, as defined in section 553.865(3), Florida Statutes; or

(b) at least one unisex restroom.

(2) Pursuant to section 553.0865(5), Florida Statutes, each state correctional institution or private correctional facility that maintains a changing facility must maintain, at a minimum:

(a) at least one changing facility designated for exclusive use by females and at least one changing facility designated for exclusive use by males, as defined in section 553.865(3), Florida Statutes; or

(b) at least one unisex changing facility.

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(3) Each state correctional institution or private correctional facility must certify compliance with sections 553.865(4) and (5), Florida Statutes, by completing Form DC2-5040 and submitting it to the Division of Facilities Management & Building Construction. Form DC2-5040 is hereby incorporated by reference. Copies of this form may be obtained from the Forms Control Administrator, 501 S. 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.

(a) For institutions established prior to July 1, 2023, Form DC2-5040 must be submitted on or before April 1, 2024.

(b) For institutions established on or after July 1, 2023, Form DC2-5040 must be submitted within one year after the institution is established.

Rulemaking Authority 944.09, 553.865, F.S. Law implemented 553.865, F.S. History – New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Nichols, Director of Facilities Management and Building Construction

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ricky D. Dixon, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2023

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 1, 2023