

March 13, 2013

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-601.314 Rules of Prohibited Conduct and Penalties for Infractions

33-601.731 Suspension of Visiting Privileges

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to allow inmates participating in a community release program to possess tobacco products and cell phones. The rules of prohibited conduct and penalties for infractions rule is being amended to remove possession of these items by inmates participating in a community release program as being an infraction of Department rules. The suspension of visiting privileges rule is being amended to prevent possession of a cell phone resulting in the suspension of an inmate's visiting privileges if they are participating in a community release program.

SUBJECT AREA TO BE ADDRESSED: Rules of Prohibited Conduct and Penalties for Infractions and Visitation

RULEMAKING AUTHORITY: 944.09 FS

LAW IMPLEMENTED: 20.315, 944.09, 944.14, 944.23, 944.279, 944.28, 944.47, 944.8031 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: LaDawna Fleckenstein, 501 South Calhoun Street, Tallahassee, Florida 32399.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.314 Rules of Prohibited Conduct and Penalties for Infractions.

The following table shows established maximum penalties for the indicated offenses. As used in the table, “DC” means the maximum number of days of disciplinary confinement that may be imposed and “GT” means the maximum number of days of gain time that may be taken. Any portion of either penalty may be applied.

Maximum Disciplinary Actions

SECTIONS 1 through 2 No change.

SECTION 3 – CONTRABAND – ANY ARTICLE NOT SOLD IN THE CANTEEN, OR ISSUED BY THE INSTITUTION, OR FOR WHICH YOU DO NOT HAVE A SPECIFIC PERMIT AUTHORIZED BY THE INSTITUTION WHERE PRESENTLY HOUSED

3-1	Possession of or manufacture of weapons, ammunition, or explosives	60 DC + All GT
3-2	Possession of escape paraphernalia	60 DC + All GT
3-3	Possession of narcotics, unauthorized drugs and drug paraphernalia	60 DC + 180 GT
3-4	Trafficking in drugs or unauthorized beverages	60 DC + All GT
3-5	Manufacture of drugs or unauthorized beverages	60 DC + 180 GT
3-6	Possession of unauthorized beverages	30 DC + 90 GT
3-7	Possession of aromatic stimulants or depressants, such as paint thinner, glue, toluene, etc.	60 DC + 180 GT
3-8	Possession of negotiables – unauthorized amounts of cash where cash is permitted, cash where cash is not	15 DC + 30 GT

permitted, other inmate's canteen coupons, other inmate's cashless canteen or identification cards or gift certificates, checks, credit cards or any other negotiable item which is not authorized

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|------|---|----------------|
| 3-9 | Possession of unauthorized or altered identification – driver's license, Social security card, cashless canteen identification card, etc. | 15 DC + 30 GT |
| 3-10 | Possession of unauthorized clothing or linen – State or personal | 15 DC + 30 GT |
| 3-11 | Possession of stolen property – State or personal | 15 DC + 30 GT |
| 3-12 | Possession of any other contraband or transfer of item to another inmate resulting in item becoming contraband | 15 DC + 30 GT |
| 3-13 | Introduction of any contraband | 60 DC + All GT |
| 3-14 | <u>Unauthorized</u> possession or use of a cellular telephone or any other type of wireless communication device, or any components or peripherals to such devices, including but not limited to SIM cards, Bluetooth items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a communication device prohibited under Section 944.47(1)(a)6., F.S. | 60 DC + All GT |
| 3-15 | Possession of gang related paraphernalia or related material, gang symbols, logos, gang colors, drawings, hand signs, or gang related documents | 30 DC + 30 GT |
| 3-16 | Non-death row <u>and/or non-community release program</u> inmates– possession, introduction, or trafficking of tobacco or tobacco-related products such as lighters or cigarette papers. | 30 DC + 60 GT |
| 3-17 | Death row inmates – Possession of tobacco, other than authorized smokeless tobacco, or possession of tobacco-related products intended for use with smoking tobacco such as lighters or cigarette papers; introduction of tobacco or tobacco-related products to non-death row housing or trafficking in such products. | 30 DC + 60 GT |

SECTIONS 4 through 11 No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.14, 944.279, 944.28 FS. History–New 3-12-84, Amended 1-10-85, Formerly 33-22.12, Amended 12-30-86, 9-7-89, 11-22-90, 6-2-94, 10-1-95, 3-24-97, 7-9-98, 8-13-98, Formerly 33-22.012, Amended 9-30-99, 6-7-00, 4-18-02, 10-10-04, 1-9-05, 4-17-05, 6-5-05, 10-27-05, 10-12-06, 11-8-07, 5-18-08, 11-9-08, 5-11-09, 12-12-10, 10-1-11,_____.

33-601.731 Suspension of Visiting Privileges.

(1) Suspension of Inmate Visiting Privileges.

(a) No change.

(b) Suspension of an inmate's visiting privileges shall be considered by the ICT as a management tool only when an inmate is found guilty of the following offenses:

1. No change.

2. Unauthorized possessing or using: a cellular telephone or other portable communication device as defined in Section 944.47(1)(a)6., F.S.; any components or peripherals to such devices, including but not limited to SIM cards, Bluetooth items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a communication device prohibited under the statute.

3. – 15. No change.

(c) – (f) No change.

(2) – (4) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09, 944.23, 944.47, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03, 10-4-07, 1-8-09, 10-23-11, 9-24-12, 12-9-12,_____.