

July 29, 2013

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.208

RULE TITLE: Inmate Internet Presence

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 wesbite.

SUBJECT AREA TO BE ADDRESSED: Inmate Internet Presence

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 Inmate Internet Presence.

(1) Establishment of accounts or presence on internet websites by inmates.

(a) Inmates are prohibited from establishing or maintaining an account, or any other presence, on any internet website.

(b) Internet website means an internet-based website that has any of the following capabilities:

1. Allows users to create web pages or profiles about themselves, including dedicated websites, blogs, or other online communities, that are available to the general public or to any other users.

2. Offers a mechanism for communication among users, including but not limited to directory, forum, chat room, electronic mail, or instant messaging.

(c) Account or presence means the inmate has an actual account in their name which is created and maintained either by the inmate or by a proxy whereby information is posted about the inmate.

(d) Inmates who create an internet account or have a presence created with the assistance of another person shall be subject to disciplinary action in accordance with Rules 33-601.301-.314, F.A.C. If an inmate alleges that an account or presence was created without his assistance or permission or that the account or presence was created before this restriction became effective, it is the responsibility of the inmate to request that the account or presence be removed by submitting a written request, within 10 days, to the owner, operator, or administrator of the site if it is reasonably possible for the Department to identify the physical address of such entity. No inmate shall be subject to discipline if the account or presence is not removed subsequent to submission of the written request. If it is not reasonably possible for the Department to identify the physical address of the owner, operator, or administrator of the site in which the account or presence is located, the inmate must submit Form DC6-236, Inmate Request, to the warden indicating that the account or presence was created without the inmate's knowledge or consent or that it was placed prior to this restriction. The inmate shall be subject to disciplinary action only if it is discovered that the inmate solicited the creation of the account or presence and that it was created subsequent to this restriction. Form DC6-236, Inmate Request, is incorporated by reference in Rule 33-103.005, F.A.C.

(e) Inmates who post information to the internet or have information posted with the assistance of another person shall be subject to disciplinary action in accordance with Rules 33-601.301-.314, F.A.C. If an inmate alleges that information was posted without his assistance or permission or that the information was posted before this restriction became effective, it is the responsibility of the inmate to request that the information be removed by submitting a written request, within 10 days, to the owner, operator, or administrator of the site in which the information is located if it is reasonably possible for the Department to identify the physical address of such entity. No inmate shall be subject to discipline if the information is not removed subsequent to submission of the written request. If it is not reasonably possible for the Department to identify the physical address of the owner, operator, or administrator of the site in which the information is located, the inmate must submit Form DC6-236, Inmate Request, to the warden indicating that the information was posted without the inmate's knowledge or consent or that it was posted prior to this restriction. The inmate shall be subject to disciplinary action only if it is discovered that the inmate solicited the posting of the information and that it was posted subsequent to this restriction.

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