

## Notice of Proposed Rule

### DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-602.112 Inmate Death Notification Process

PURPOSE AND EFFECT: To clarify and update the inmate death notification process.

SUMMARY: Rulemaking is necessary to clarify when the Office of Inspector General must be notified of an inmate's death and to remove language regarding the responsibility of Classification staff to collect and file an inmate's death certificate in the inmate's paper and electronic records.

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 would be any adverse impact or regulatory cost associated with this rule that exceeds the stated criteria. Upon review of the proposed rulemaking, the Department 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 FS.

LAW IMPLEMENTED: 406.50, 406.53, 944.09 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Vazquez, Assistant General Counsel, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.112 Inmate Death Notification Process.

(1) Notice of Death. Upon the death of an inmate while in the custody of the department:

(a) The institution shall immediately notify:

1. The person designated by the inmate to receive notice of his death, which will typically be provided by the chaplain; the chaplain will normally be responsible for giving or arranging such notice;

2. The Office of the Inspector General on-call supervisor duty officer via the emergency action center ~~if the death occurred under suspicious circumstances or is the result of unnatural causes;~~

~~3. The local institution inspector;~~

~~3.4. The Office of Health Services;~~

~~4.5. Any authorized organ donor organization that which has received prior approval from the deceased for removal and donation of organs;~~

~~5.6. The nearest consulate of a foreign national's country in in the case of the death of a foreign national, ~~the nearest consulate of that national's country;~~ and~~

~~6.7. The district medical examiner of the district in which the death occurred if the death appears to be ~~is~~ the result of natural causes.~~

(b) The Office of the Inspector General shall immediately notify:

1. The Florida Department of Law Enforcement;

~~2.4. The district medical examiner of the district in which the death occurred if the death occurred under suspicious circumstances or appears to be ~~is~~ the result of unnatural causes; and~~

~~3.2. The State Attorney of the judicial circuit in which the death occurred. ~~occurred; and~~~~

~~3. The Florida Department of Law Enforcement.~~

(c) No change.

(2) Custody and Disposition of the Body.

(a) through (b) No change.

(c) The body may be claimed by any relative or friend of the ~~deceased, deceased or~~ by a representative of a fraternal organization of which the deceased was a ~~member, member~~ or by the Anatomical Board at the University of Florida Health Science Center, provided that the Anatomical Board may not claim the body of any military dischargee described in Section 406.53, F.S. If competing claims to the body are received, they shall be honored in the following order:

1. through 8. No change.

(3) If the body of the deceased inmate is not claimed as outlined in paragraph (2)(c), disposal shall be by burial or cremation, as determined by the warden or his or her designee, based on cost considerations and available space, locally or at the department's designated cemetery, and whether the deceased inmate is entitled to burial in a national cemetery as a veteran of the armed forces. The warden or his or her designee shall make a reasonable effort, including contacting the county veterans service office or regional office of the United States Department of Veterans Affairs, to determine if the deceased inmate is entitled to burial in a national cemetery as a veteran of the armed forces. When cremation is the option selected for disposal, the institution or facility shall:

(a) Ensure that cremation is not prohibited by the tenets of the faith preference of the deceased inmate; and;

(b) No change.

~~(4) In all cases of inmate death, the warden shall furnish to the Bureau of Classification and Central Records a copy of the death certificate obtained from the appropriate authority in the county in which the death occurred. In cases where an inquest is held, the warden shall insure that a copy of the coroner's report is furnished to the Bureau of Classification and Central Records.~~

Rulemaking Specific Authority 944.09 FS. Law Implemented 406.50, 406.53, 944.09 FS. History—New 10-8-76, Amended 9-24-81, Formerly 33-3.09, Amended 6-2-88, 2-18-90, 2-12-97, Formerly 33-3.009, 33-401.301, Amended 3-25-02, 9-9-03, 2-15-06,\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Comerford, Assistant Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mark S. Inch, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 23, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 26, 2019