

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-208.004 Employment of Relatives

PURPOSE AND EFFECT: To clarify the rule regarding the employment and supervision of relatives within the Department.

SUMMARY: Rulemaking is necessary to align the language of the rule with relevant statutes in order to better serve the needs of the Department as it relates to the employment of relatives. The new language is intended to clarify that staff are not permitted to directly supervise family members within the Department.

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: 945.0311 FS.

LAW IMPLEMENTED: 112.3135, 945.0311 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:

Substantial rewording of Rule 33-208.004, F.A.C., follows. See Florida Administrative Code for present text.

33-208.004 Employment of Relatives.

(1) Definitions.

(a) "Direct supervision" means being an employee's immediate supervisor, or the rater or reviewer of the employee's performance.

(b) "Employee" means any individual on the payroll of the Department of Corrections.

(c) "Line of authority" means any position having supervisory authority within the direct chain of command or supervisory path that organizationally links any position in the Department to the Secretary.

(d) "Organizational unit" includes:

1. A unit of a state correctional institution such as security, medical, dental, classification, maintenance, personnel, or business. A work camp, boot camp, or other annex of a state correctional institution is considered part of the institution and not a separate unit.

2. An area of a regional office such as personnel, medical, administrative services, probation and parole, or community facilities.

3. A correctional work center, road prison, or work release center.

4. A probation and parole circuit office or a sub-office within a circuit.

5. A bureau of the Office of the Secretary or of any of the assistant secretaries.

(e) "Public Official" means an employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to

recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency.

(f) "Relative" means any individual who is related to another as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

(2) Direct supervision of a relative employee is prohibited.

(3) An employee must not appoint, promote, advance, advocate for, or discipline any relative employee within their line of authority or organizational unit.

(4) In accordance with Section 112.3135, F.S., a public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the Department in which the official exercises jurisdiction or control of the employee relative. Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section. In the event of an emergency as defined in Section 252.34(3), F.S., the Secretary is authorized to approve the temporary employment of individuals whose employment would otherwise be prohibited by Section 112.3135, F.S.

Rulemaking Authority 945.0311 FS. Law Implemented 112.3135, 945.0311 FS. History—New 3-3-13, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: David Arthmann, Office of Human Resources Director

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 16, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 23, 2019