

December 17, 2010

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

Rule No.:	RULE TITLE
33-601.713:	Inmate Visiting - Definitions
33-601.714:	Inmate Visiting - General
33-601.715:	Visiting Application Initiation Process
33-601.716:	Visiting Record Management
33-601.717:	Visiting Denial
33-601.718	Review of Request for Visiting Privileges
33-601.725:	Permissible Items for Visitors
33-601.731:	Revocation or Suspension of Visiting Privileges
33-601.732:	Reinstatement of Revoked or Suspended Visiting Privileges
33-601.733:	Visiting - Special Status Inmates
33-601.735:	Non-Contact Visiting
33-601.737:	Visiting - Forms

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to amend Rule 33-601.713, F.A.C., to clarify language and add a definition of “major rule violation” for the purpose of visiting privileges suspension; to amend Rule 33-601.714, F.A.C., to clarify the warden’s authority to deny or terminate a visit; to amend Rule 33-601.715, F.A.C., to correct language referring to the wrong form; to amend Rule 33-601.716, F.A.C., to clarify the circumstances under which an individual may be on the visiting list of more than one non-family inmate; to substantially reword Rule 33-601.717, F.A.C., to clarify the circumstances under which an individual may be denied visiting privileges; to repeal Rule 33-601.718, F.A.C., as the language is being moved to other rules within Chapter 33-601, F.A.C.; to amend Rule 33-601.725, F.A.C., to include a photo ID and a copy of a notarized authorization to supervise a minor as permissible items for visitors to possess; to amend Rule 33-601.731, F.A.C., to clarify the circumstances under which an individual’s visiting privileges may be suspended and to incorporate by reference the Visiting Privileges Suspension Matrix, which specifies the time period of suspensions in relation to their underlying infractions; to amend Rule 33-601.732, F.A.C., to clarify the procedure for

reinstatement of suspended visiting privileges; to amend Rule 33-601.733, F.A.C., to include language being moved from Rule 33-601.734, F.A.C., concerning the visiting privileges of inmates in confinement and protective management statuses; to amend Rule 33-601.735, F.A.C., to clarify that noncontact visits for confinement and protective management status inmates must be pre-approved by the warden or designee; and to amend Rule 33-601.737, F.A.C., to clarify form language.

SUMMARY: The proposed rules are amended as follows: the language of Rule 33-601.713, F.A.C., is clarified and a definition of “major rule violation” for the purpose of visiting privileges suspension is added; Rule 33-601.714, F.A.C., clarifies the warden’s authority to deny or terminate a visit; Rule 33-601.715, F.A.C., corrects language referring to the wrong form; Rule 33-601.716, F.A.C., clarifies the circumstances under which an individual may be on the visiting list of more than one non-family inmate; Rule 33-601.717, F.A.C., is substantially reworded to clarify the circumstances under which an individual may be denied visiting privileges; Rule 33-601.718, F.A.C., is repealed as the language of the rule is being moved to other rules within Chapter 33-601, F.A.C.; Rule 33-601.725, F.A.C., adds a photo ID and a copy of a notarized authorization to supervise a minor to the list of permissible items for visitors to possess; Rule 33-601.731, F.A.C., clarifies the circumstances under which an individual’s visiting privileges may be suspended and incorporates by reference the Visiting Privileges Suspension Matrix, which specifies the time period of suspensions in relation to their underlying infractions; Rule 33-601.732, F.A.C., clarifies the procedure for reinstatement of suspended visiting privileges; Rule 33-601.733, F.A.C., adds language being moved from Rule 33-601.734, F.A.C., concerning the visiting privileges of inmates in confinement and protective management statuses; Rule 33-601.735, F.A.C., clarifies that noncontact visits for confinement and protective management status inmates must be pre-approved by the warden or designee; and Rule 33-601.737, F.A.C., clarifies language on Forms DC6-111B and DC6-111D.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these rules will not have an adverse impact on small business and are not likely to directly or indirectly increase regulatory costs within a year of taking effect. A SERC has not been prepared by the agency. 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, 944.23 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.23, 944.47, 944.8031 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN FAW. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-601.713 Inmate Visiting – Definitions.

(1) No change.

(2) “Automated Visiting Record (AVR)” refers to a computer subsystem of the Department’s electronic offender database ~~Offender Based Information System (OBIS)~~ that automates visitor facility entry and exit and records visiting information.

(3) “Emancipated Minor” refers to a visitor seventeen years of age or younger who furnishes written proof of emancipation and attaches a copy to ~~the Request for Visiting Privileges~~, Form DC6-111A, Request for Visiting Privileges. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(4) No change.

(5) “~~Immediate~~ Family” for the purposes of Rules 33-601.713 through 33-601.737, F.A.C., refers to an inmate’s spouse, children, parents, brothers, sisters, grandparents, great-grandparents, grandchildren, step-brothers, step-sisters, step-parents, step-grandparents, aunts, uncles, nieces, nephews, foster parents, step-children, half brothers, half sisters, brothers-in-law, sisters-in-law, mothers-in-law, fathers-in-law, and sons and daughters-in-law.

(6) through (7) No change.

(8) “Suspension” refers to the withdrawal or voiding ~~suspension~~ of visiting privileges for a specified period of time for an inmate or visitor.

(9) through (12) No change.

(13) “Special Status Inmate” refers to an inmate who is not in the general population but is in a special classification status as outlined in Rule 33-601.733, F.A.C., who that shall be prohibited or restricted from ~~prohibit or restrict~~ visiting based upon the status.

(14) No change.

(15) “Indefinite Suspension” ~~“Revoked”~~ refers to the withdrawal ~~withdrawing~~ or voiding of visiting privileges of a visitor for an unspecified period of time.

(16) No change.

(17) “Major Rule Violation” for the purpose of Rules 33-601.713 through 33-601.737, F.A.C., refers to any assault, battery, or attempted assault or battery; any intentional lewd or lascivious exhibition in the presence of staff or visitors; any spoken or written threat towards any person; inciting, attempting to incite, or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives, or escape paraphernalia; and any escape or escape attempt.

(18) Lewd or Lascivious Exhibition – An inmate commits a lewd or lascivious exhibition when the inmate:

(a) Intentionally masturbates;

(b) Intentionally exposes the genitals without authorization; or

(c) Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a staff member or volunteer.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03, 3-7-04, 12-6-04,_____.

33-601.714 Inmate Visiting – General.

(1) through (2) No change.

(3) The warden, assistant warden, or duty warden is authorized to deny or terminate a visit pursuant to Rule 33-601.729, F.A.C ~~if any of its aspects are disruptive or violate rules, procedures, instructions, restrictions, orders, or directions. Any disruption or violation shall be entered on the AVR and may shall subject the visitor to revocation or suspension of visiting privileges by the warden or designee and the inmate to disciplinary action.~~

(4) Posting of Policies.

(a) No change.

(b) The warden or designee shall display the visiting rules, procedures, and any technical instructions that do not impede the maintenance of the security of the institution in a manner that allows visitors to read them before they begin the institutional visiting entry process.

(5) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03,_____.

33-601.715 Visiting Application Initiation Process.

(1) No change.

(2) The inmate shall be given up to fifteen copies of Form DC6-111A, ~~the~~ Request for Visiting Privileges, ~~Form DC6-111A~~, and Form DC6-111B, Visitor Information Summary, ~~Form DC6-111B~~, within 24 hours after arrival at his or her permanent facility. Forms DC6-111A and DC6-111B are incorporated by reference in Rule 33-601.737, F.A.C. The inmate shall be responsible for sending the forms to each family member or friend twelve years of age or older, whom the inmate wishes to be placed in his or her approved visiting record. Minors eleven years of age and younger are not required to submit Form DC6-111A, a Request for Visiting Privileges, ~~DC6-111B~~, until they reach 12 years of age.

(a) Only visitors who have not been denied ~~approved~~ pursuant to Rule 33-601.717 ~~33-601.718~~, F.A.C., shall be allowed to visit.

(b) The prospective visitor shall be required to complete a Form DC6-111A, Request for Visiting Privileges, by filling in each line or inserting "NA" (not applicable) where appropriate.

(3) through (4) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History--New 11-18-01, Amended 5-27-02, 9-29-03, _____.

33-601.716 Visiting Record Management.

(1) The Bureau of Classification and Central Records shall develop and maintain computerized inmate – visiting records.

(2) Department staff shall document all requests for visits, ~~and~~ decisions made with regard to visiting, and pertinent comments on the automated visiting record.

(3) No change.

(4) Inmates shall be permitted to remove or request to add visitors to their inmate visiting records by completing Form DC6-111C, a Remove/Add Visitor Request, ~~Form DC6-111C~~, provided by institutional classification staff. Form DC6-111C is incorporated by reference in Rule 33-601.737, F.A.C. Additions to the visiting record shall be allowed at any time, up to the limit of fifteen approved visitors. Removals shall only be permitted every six months.

Visitors whose visiting privileges are suspended or ~~revoked~~ shall not be removed from an inmate's approved visiting list, ~~while in the respective status~~ and the inmate shall not be allowed to replace the visitor with another approved visitor.

(5) No change.

(6) A visitor shall ~~not~~ be permitted to be on ~~the more than one inmate's~~ approved visiting record of all inmates who are unless they are immediate family as well as one non-family inmate members except as provided in subsection ~~(7) 33-601.716(7), F.A.C.~~

(7) A visitor who is approved as ~~immediate~~ family on an inmate's visiting record shall not be considered for visitation with a non-~~immediate~~ family ~~member~~ inmate if both inmates are housed at the same institution unless:

(a) The ~~immediate~~ family member inmate is transferred to another institution or is released from incarceration.

(b) The visitor is already approved to visit a non-~~immediate~~ family inmate prior to the immediate family member inmate being received at the same institution. Visitation shall be allowed, but not on the same day.

(c) The visitor is already approved to visit a non-~~immediate~~ family ~~member~~ inmate prior to being transferred to the same institution housing a ~~an immediate~~ family member inmate. Visitation shall be allowed, but not on the same day.

(8) An approved visitor who is on the visiting list of two or more ~~immediate~~ family ~~member~~ inmates who are at the same institution may visit the inmates at the same time.

(9) A visitor approved to visit ~~as a non-immediate family inmate member~~ shall not be removed from the visiting list of the inmate for purposes of visiting another non-~~immediate~~ family ~~member~~ inmate at the same institution.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History--New 11-18-01, Amended 9-29-03,_____.

(Substantial Rewording of Rule 33-601.717 follows. See Florida Administrative Code for present text.)

33-601.717 Visiting Denial.

(1) Visitors shall not be denied visiting because of disability, race, creed, color, or national origin of the inmate or visitor. Visits shall not be denied based on the ideas or opinions held or expressed by the inmate or visitor or for any reason unrelated to security, good order, or rehabilitative objectives of the institution.

(2) Initial Denial of Visiting Privileges.

(a) In approving or disapproving visiting privileges, the assigned institutional classification officer shall review Form DC6-111A, Request for Visiting Privileges, and shall consider all factors related to the security, order, and effective management of the institution. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(b) Prior criminal records shall not automatically result in disapproval of visiting; the nature, extent, and recentness of criminal convictions and adjudications withheld as well as the applicant's relationship to the inmate shall be considered when approving or disapproving an application for visiting privileges. The assigned institutional classification officer shall evaluate an applicant's criminal history and visiting background using Form DC6-111D, Visitor Screening Matrix. Form DC6-111D is incorporated by reference in Rule 33-601.737, F.A.C. An application shall be denied if applicant's criminal history includes:

1. Release from incarceration in any jurisdiction for a felony conviction within the last two years unless the applicant was incarcerated at any time in the facility in which visitation is requested;

2. Release from incarceration for a felony conviction within the last five years if the applicant was incarcerated at any time in the facility in which visitation is requested. If an inmate transfer results in visitation in a facility in which an approved visitor was previously incarcerated and released within the last five years, the warden shall, on a case by case basis, determine if the approved visitor shall be allowed to visit. Factors to be considered shall include, but are not limited to, the visitor's adjustment during incarceration, the relationship of the inmate to the visitor, institutional security, and public safety;

3. Release from incarceration in any jurisdiction for a misdemeanor conviction within the last year;

4. Current community supervision status or termination from community supervision in any jurisdiction within the past year; and

5. The disposition of arrests. If the disposition of an arrest is not reflected, the disposition shall be ascertained prior to approval of the application. If additional documentation of the charge is necessary, the prospective visitor shall be responsible for providing official documentation of the disposition or circumstances of the offense in question.

(c) An application for visiting privileges shall be denied if the applicant:

1. Has possessed, introduced, or attempted to introduce contraband as defined in Section 944.47, F.S., into any facility;

2. Has committed serious or repeated violations of departmental rules or procedures during a previous visit within the past five years;

3. Is a former department employee, contract employee, or volunteer with a documented work history that raises security concerns;

4. Is a victim of an inmate's current or prior offense with consideration of the nature of the inmate's offense, the extent of the victimization, and the relationship of the victim to the inmate;

5. Is a co-defendant of the inmate in a current or prior offense;

6. Provided testimony, documentation, or physical evidence that assisted the prosecution in the inmate's conviction or incarceration;

7. Has an active protection order or injunction against the inmate to be visited or the inmate has an active protection order or injunction against the prospective visitor;

8. Is an illegal alien;

9. Is a department volunteer or intern at the institution in which visitation is requested or was a volunteer or intern at the institution at any time in the previous five years; or

10. Escaped, attempted to escape, or assisted or attempted to assist an escape or escape attempt from any facility. If visitation is denied based on this paragraph, the denial shall be permanent.

(d) Visiting privileges shall be denied if the inmate or the prospective visitor gave false or misleading information to obtain visiting privileges within the past six months, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertent or good faith mistake, omission, or clerical error. Discovery of intentional falsification of visitor information after the visitor has been approved for visitation shall result in the visitor being considered for suspension of visiting privileges pursuant to Rule 33-601.731, F.A.C.

(e) In approving or denying an application for visiting privileges, the institutional classification officer shall consider all other factors related to the security, order, or effective management of the institution.

(f) The Secretary or designee, who for the purpose of this rule shall be the Assistant Secretary of Institutions, has the authority to review and modify the classification officer's approval or denial of visiting privileges.

(3) Denial of Visitation after Initial Approval of Visiting Privileges.

(a) Visiting shall be denied during a declared emergency.

(b) Upon review of Form DC6-111A, the institutional classification officer may deny visiting for individuals approved to visit who subsequently become subject to denial pursuant to any of the criteria set forth in subsection (2) of this rule prior to any official suspension pursuant to Rule 33-601.731, F.A.C.

Rulemaking Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03, 6-15-06, 1-7-07, _____.

Editorial Note: Formerly 33-601.706 and 33-601.707, F.A.C.

33-601.718 Review of Request for Visiting Privileges.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 9-29-03, Repealed.

33-601.725 Permissible Items for Visitors

(1) Visitors shall be allowed to bring only authorized items listed into any department facility. Entry shall be denied if the visitor attempts to enter the institution or facility while possessing any unauthorized item or any authorized item in more than the approved amounts. Authorized items shall be removed by the visitor at the end of the visit. Authorized items include:

(a) through (d) No change.

(e) One (1) photographic identification card.

(f)(e) Prescription medications. The department reserves the right to prohibit individuals from bringing any medication into the facility that may pose a threat to the inmate population or institutional security. Visitor requiring medical injections must leave such items secured in their vehicles and will be allowed to depart the visiting area if an injection is required. Reentry into the visiting area shall be allowed in accordance with Rule 33-601.723 subsection 33-601.723(6), F.A.C. The visitor shall not be allowed to bring needles or syringes into any department facility or dispose of them on the grounds of any department institution or facility under any circumstances.

1. through 3. No change.

(g)(f) Feminine hygiene items enclosed in the original individual wrapping may be carried into the visiting park in a small pouch or bag.

(h)(g) Hairbrush and comb.

(i) If the visitor is an authorized adult as defined in Rule 33-601.713, F.A.C, one (1) copy of a notarized authorization to supervise a minor.

~~(j)(4)~~ Visitors with authorized infants and small children shall be allowed to bring in:

1. through 4. No change.

~~(k)(i)~~ Sunglasses.

~~(l)(j)~~ Small unopened package of facial tissues in clear plastic.

(2) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.47, 944.8031 FS.

History–New 11-18-01, Amended 5-27-02, 7-1-03, 12-30-03, 11-25-04, 3-29-07, 10-8-07,_____.

33-601.731 ~~Revocation or~~ Suspension of Visiting Privileges.

(1) Suspension of Inmate Visiting Privileges.

~~(a)(1)~~ Suspension, including indefinite suspension, of an inmate’s visiting privileges shall be considered by the Institutional Classification Team (ICT) ~~ICT~~ as a management tool independent of any disciplinary action taken pursuant to Rules 33-601.301 through 33-601.314, F.A.C.

~~(b)(2)~~ Indefinite suspension of an inmate’s visiting privileges shall be considered by the ICT ~~Institutional Classification Team (ICT)~~ as a management tool only when an inmate is found guilty of the following offenses:

1. Any major rule violation as defined in Rule 33-601.713, F.A.C.

~~(a) Possessing any firearms, dangerous weapons, explosives or explosive devices;~~

~~(b) Criminal activity, serious rule violations, repeated visiting rule or procedure infractions or security breach. A serious rule violation is a violation that subjects the violator to suspension of privileges for a minimum of two years or to revocation of visiting privileges;~~

2.(e) 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.

~~(c)(3)~~ An inmate shall be subject to suspension of visiting privileges ~~for up to two years~~ by the ICT as a management tool when the inmate is found guilty of the following disciplinary offenses: ~~in paragraphs (a) through~~

~~(d) below. In determining the length of suspension, the ICT shall consider the extent of the sexual misconduct, the amount and type of drugs, the amount of money, the type of article or instrument, the inmate's prior disciplinary history, and the inmate's prior visiting record.~~

~~1.(a) Committing or engaging in sexual misconduct (i.e., nudity, sexual acts with or without others, willful exposure of private body parts, or soliciting sexual acts from others).~~

~~2.(b) Possessing or passing money.~~

~~3.(c) Possessing or using drugs.~~

~~4. Possessing or using intoxicating beverages.~~

~~5. Refusing to participate in a mandatory program or being removed from a mandatory program due to negative behavior.~~

~~6. Possessing a recording device.~~

~~7. Violation of visiting rules.~~

~~(d) Possessing any article or instrument that aids in escape or attempted escape.~~

~~(4) An inmate shall be subject to suspension of visiting privileges for three months for a first offense, six months for a second offense and two years for a third or subsequent offense, by the ICT as a management tool when an inmate is found guilty of possessing any of the following contraband or illegal items:~~

~~(a) Intoxicating beverages,~~

~~(b) Recording devices.~~

~~(5) An inmate shall be subject to suspension of visiting privileges for three months by the ICT as a management tool when an inmate is rated "unsatisfactory" for the work or program performance rating, including part time assignment or security assessment. Such three month suspension shall begin with the month the rating was entered and run consecutively for each unsatisfactory rating.~~

~~(6) Inmates shall be suspended from receiving visits for three months beginning with the next visiting period for refusing to participate or being removed from a mandatory program due to negative behavior.~~

~~(7) The ICT shall consider suspending the inmate's visiting privileges for each subsequent offense described in subsections 33-601.731(1) through (5), F.A.C.~~

~~(d) The ICT shall suspend the visiting privileges of any inmate subject to a pending investigation for escape, attempted escape, or possession of escape paraphernalia until the investigation is complete. If the inmate is found~~

guilty, the ICT shall consider indefinite suspension of the inmate's visiting privileges pursuant to paragraph (1)(b) of this Rule. If the inmate is not found guilty, the ICT shall immediately reinstate the inmate's visiting privileges.

(e) If an inmate is found guilty of an offense listed in paragraph (1)(c), the ICT shall suspend the inmate's visiting privileges for the length of time specified on Form NI1-102, Visiting Privileges Suspension Matrix. Form NI1-102 is hereby incorporated by reference. A copy is available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is _____. If an inmate's visiting privileges are suspended pursuant to this Rule and the inmate receives a subsequent guilty finding for one of the offenses listed in paragraph (1)(c), the inmate is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of a guilty finding for the same offense, the inmate's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

2. If the subsequent offense is different from the previous offense, the inmate's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

(e)(8) In lieu of suspending an inmate's visiting privileges, the ICT is authorized to consider placement of an inmate in non-contact visitation status as provided in Rule 33-601.735 ~~paragraph 33-601.735(2)(e)~~, F.A.C., for offenses listed in paragraph (1)(c) subsections 33-601.731(1) through (6), F.A.C.

(2)(9) Suspension of Visitor's Visiting Privileges.

(a) A visitor's visiting privileges shall be indefinitely suspended ~~revoked~~ by the warden or designee when the visitor:

1. through 2. No change.

3. Assists, facilitates, aids or abets an inmate to escape or attempt to escape or is found in possession of or passing or attempting to pass to an inmate any item or instrument that is capable of being used to aid in effecting or attempting an escape. Local law enforcement shall be called in this instance.

~~a. All visiting privileges of the escapee shall be suspended upon his or her return to department's custody.~~

~~b. Visiting privileges shall be suspended pending completion of the Inspector General's investigation if an attempted escape is alleged.~~

4. through 7. No change.

(b) A visitor's visiting ~~Visiting~~ privileges shall be suspended by the warden or designee ~~for up to two years~~ when the visitor:

1. Attempts to pass or passes money to an inmate.;

2. Is intoxicated or has consumed intoxicating beverages or is found in possession of intoxicating beverages on the grounds of any department facility, or is found passing or attempting to pass such items to an inmate.;

3. Violates visitor conduct standards in Rule subsection 33-601.727(1)(i) through (k), F.A.C.

4. Commits criminal activity, ~~serious rule violations or infractions or any security breach.~~

5. Falsifies ~~As a former employee, contract employee, or vendor falsifies~~ information to obtain visiting privileges, including falsification of guardianship documents, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertent or good faith mistake, omission, or clerical error.

(c) If a visitor is found guilty of an offense listed in paragraph (2)(b), the warden or designee shall suspend the visitor's visiting privileges for the period of time specified on Form NI1-102, Visiting Privileges Suspension Matrix. If a visitor's visiting privileges are suspended pursuant to this Rule and the visitor subsequently commits one of the offenses listed in paragraph (2)(b), the visitor is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of the commission of the same offense, the visitor's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

2. If the subsequent offense is different from the previous offense, the visitor's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense ~~Visitors found in violation of paragraph 33-601.717(5)(f), F.A.C. — falsifying information to obtain visiting privileges, subsections 33-601.723(3) and (5), F.A.C., falsifying information at visitor registration and falsifying documents of guardianship, subsection 33-601.724(2), F.A.C. — visitor attire, Rule 33-601.726, F.A.C. — visitor searches, or visitor conduct standards as~~

~~outlined in paragraphs 33-601.727(1)(a) through (h), F.A.C., shall have visiting privileges suspended by the warden or designee supervisor for up to one year.~~

~~(3)(10)~~ The warden or designee shall have the discretion to impose a length of suspension less than the maximum allowed by rule by considering the type of violation, the impact of the violation on the overall security or safety of the institution, and prior visits without incident.

(4) Temporary suspensions. The Inspector General's Office is authorized to temporarily suspend the visiting privileges of an approved visitor who is involved in or is the subject of an ongoing investigation pending the outcome of the investigation.

Rulemaking Specific Authority 944.09, 944.23 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, _____.

Editorial Note: Formerly 33-601.707 and 33-601.708, F.A.C.

33-601.732 Reinstatement of ~~Revoked or~~ Suspended Visiting Privileges.

(1) Reinstatement of Inmate Visiting Privileges. The warden or designee shall approve or deny requests for reinstatement of an inmate's suspended visiting privileges. The inmate shall submit a written request for reinstatement to the warden on Form DC6-236, Inmate Request. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(a) Reinstatement of indefinitely suspended privileges ~~suspended for more than two years~~ shall only be considered after two years from imposition of the indefinite suspension.

1. The warden or designee shall review the request, render a final decision and notify the inmate concerned.

2. Should the inmate be denied reinstatement, the inmate may not make another request for six months ~~one year~~ from the last decision requesting reinstatement.

(b) Reinstatement of suspended privileges ~~suspended for two years or less~~ shall not be considered for ~~reinstatement~~ for a period of one year from the imposition of the most recent suspension. Should the inmate be denied, the inmate may not make another request for six months ~~from the last decision requesting reinstatement~~.

(c) ~~Early reinstatement of suspensions of one year or less shall not be considered for reinstatement until at least six months from the date of suspension. Should the inmate be denied reinstatement, the inmate may not make another request.~~

(2) Reinstatement of Visitor Visiting Privileges. The warden or designee shall approve or deny requests for reinstatement of a visitor's ~~revoked or~~ suspended visiting ~~privileges~~ privilege. The visitor, or inmate on behalf of the affected visitor, shall submit a written request for reinstatement of privileges to the assigned institutional classification officer. The visitor for whom the reinstatement is being considered shall submit Form DC6-111A, a Request for Visiting Privileges, Form DC6-111A, if the suspension has been for longer than six months. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(a) Reinstatement of indefinitely suspended ~~revoked~~ privileges shall only be considered after two years from imposition of the indefinite suspension.

1. No change.

2. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request for six months ~~one year~~ from the last decision requesting reinstatement.

(b) Reinstatement of suspended privileges ~~suspended for two years or less~~ shall not be considered for reinstatement for a period of one year from the imposition of the most recent suspension. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request for six months ~~from the last decision requesting reinstatement~~.

~~(c) Early reinstatement of suspensions of one year and under shall not be considered for reinstatement until at least six months from the date of suspension. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request.~~

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03,_____.

33-601.733 Visiting – Special Status Inmates.

(1) Inmates in special statuses, except for medical reasons, are not considered inmates with regular visiting privileges and must have special approval to visit. Inmates in special statuses shall be prohibited or restricted from regular visiting due to adverse impacts on security and orderly institutional operation.

(a) No change.

(b) Inmates in administrative confinement, protective management, or disciplinary confinement status shall have visiting privileges as outlined in Rules 33-602.220, 33-602.221, and 33-602.222, F.A.C., respectively. The

warden or designee shall determine whether an approved visit for inmates in one of the above statuses will be non-contact pursuant to Rule 33-601.735, F.A.C. In disciplinary confinement, administrative confinement, or protective management status, inmates shall have visiting privileges as outlined in Rules 33-602.222, 33-602.220, and 33-602.221Rule 33-601.734, F.A.C.

(c) through (2) No change.

(3) Visitation for inmates in prolonged hospitalization or with serious medical conditions or terminal illnesses shall be allowed visits unless security or medical issues as determined by the warden and chief health officer preclude visitation. A decision shall be made on a case-by-case basis. If visitation is authorized, the warden, in consultation with the chief health officer, shall determine the visitation schedule and shall inform at least three members of the inmate's immediate family. The regional director shall be informed in high notoriety cases before allowing visiting.

(4) through (6) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS.

History—New 11-18-01, Amended 5-27-02, 12-25-08,_____.

Editorial Note: Formerly 33-601.704, F.A.C.

33-601.735 Non-Contact Visiting.

(1) through (4) No change.

(5) For inmates in Administrative Confinement pursuant to Rule 33-602.220, F.A.C., Protective Management pursuant to Rule 33-602.221, F.A.C., or Disciplinary Confinement pursuant to Rule 33-602.222, F.A.C., the warden or designee shall determine whether a pre-approved visit will be contact or non-contact based on one or all of the criteria set forth in subsection (2).

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS.

History—New 11-18-01,_____.

33-601.737 Visiting – Forms.

The following forms are hereby incorporated by reference. A copy of any of these forms is available from the Forms Control Administrator, ~~Office of Research, Planning and Support Services~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(1) through (3) No change.

(4) DC6-111B, Visitor Information Summary, effective _____ ~~8-23-07~~.

(5) No change.

(6) DC6-111D, Visitor Screening Matrix, effective _____ ~~8-23-07~~.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 4-29-02, 9-29-03, 3-31-05, 7-17-05, 3-21-06, 3-29-07, 8-23-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wendell Whitehurst, Deputy Assistant Secretary for Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Richard Davison, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 6, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 2009