

**STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
DIVISION OF JUVENILE JUSTICE**

**CALIFORNIA CODE OF REGULATIONS
TITLE 15, DIVISION 4
Sections 4190, 4191, 4192.5, 4193, and 4196**

Extended Confinement Time and Jurisdiction Over Dangerous Persons

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

Description of Public Problem, Administration Requirement, or Other Condition or Circumstance the Regulation Intended to Address

On June 3, 1985, the Office of Administrative Law (OAL) determined that a substantial number of regulations adopted by the Division of Juvenile Justice (then the California Youth Authority) were not in compliance with Section 11349.1 of the Administrative Procedures Act (APA), and repealed those regulations pursuant to Section 11349.7. Included among the repealed regulations were portions of Title 15, Division 4, Chapter 1.8 of the California Code of Regulations (CCR), entitled “Extended Confinement Time and Jurisdiction Over Dangerous Persons.” Specifically, OAL repealed Sections 4190, 4190.5, 4191, 4192, and 4195 of the CCR.

Section 1004 of the Welfare and Institutions (W&I) Code establishes that the Division of Juvenile Justice (DJJ) shall have charge of the persons committed to or confined in each DJJ facility, and shall provide for their care, supervision, education, training, employment, discipline, and government. The DJJ shall exercise its powers toward the correction of their faults, the development of their characters, and the promotion of their welfare.

The W&I Code, Section 1712, assigns responsibility to the California Department of Corrections and Rehabilitation, DJJ to make and enforce all rules appropriate to the proper accomplishment of the functions of DJJ.

The W&I Code, Section 1800 was adopted in 1963. It states, in effect, that DJJ can request that the prosecuting attorney petition the committing court for an order to extend the confinement time of a youth if the impending discharge of the youth would pose a danger to the public because of the youth’s mental or physical deficiency, disorder, or abnormality.

The W&I Code, Section 1800.5, which was added in 2003, states that, if the decision is made at any level not to proceed with a W&I Code Section 1800 petition, the “Youth

Authority Board” (now the Juvenile Parole Board) may request the “Director of the Youth Authority” (now the Chief Deputy Secretary) to review the case for further action. The “Director of the Youth Authority” (now the Chief Deputy Secretary) can designate a mental health professional to review the case and thereafter affirm the finding or order additional assessment of the youth. If, after review, the mental health professional affirms the initial finding, concludes that a subsequent assessment does not demonstrate that a youth is subject to extended confinement pursuant to W&I Code, Section 1800, or fails to respond to a request from the Board within 15 calendar days, the Board may request the prosecuting attorney to petition the committing court for an order for a W&I Code, Section 1800 time extension if the Board continues to find that the youth would be physically dangerous to the public because of the youth’s mental or physical deficiency, disorder, or abnormality.

In November 2004, the Superior Court of California in *Farrell v. Allen* (now *Cate*), County of Alameda, Case No. RG 03079344, issued orders in a Consent Decree under which the DJJ agreed to file remedial plans in all areas of deficiency identified by experts for the Court by January 31, 2005. The DJJ agreed to develop and implement a policy related to forensic evaluations by June 1, 2007. The policy was to be consistent with the principles discussed in Section 5 of the Mental Health Remedial Plan, dated August 24, 2006.

Current DJJ regulations pertaining to forensic evaluations are incomplete; consequently, they do not sufficiently provide staff with clear guidelines.

Specific Purpose and Factual Basis

Title 15, Division 4, Chapter 1.8, Sections 4190 and 4190.5 of the CCR were repealed in 1985. Prior to their repeal, the sections read as follows:

4190. Introduction.

The Youth Authority may apply to a committing criminal or juvenile court for an order extending jurisdiction and authorized confinement time for a ward if it would be physically dangerous to the public to discharge such ward.

4190.5 Definitions

For the purpose of the regulations contained in this chapter, the following words have the following meanings:

Juvenile Court. A division of the superior court designated as exercising jurisdiction over cases under the provisions of the Juvenile Court Law (Welfare and Institutions Code, Section 200 et. seq.).

Criminal Court. A superior, municipal or justice court not designated as a juvenile court.

Section 4190 is adopted to implement and interpret the provisions of W&I Code Sections 1800 and 1800.5 and to make specific the evaluation process that is used to determine whether a youth should receive extended confinement time related to a mental deficiency, disorder, or abnormality.

Title 15, Division 4, Chapter 1.8, Section 4191 of the CCR was also repealed in 1985. Prior to its repeal, the section read as follows:

4191. Authority to Apply for Extension

Welfare and Institutions Code, Section 1800, provides the authority to apply to the committing court for an extension of Youth Authority jurisdiction and confinement time. Section 1800 reads in pertinent part as follows:

*Whenever the Youth Authority Board determines that the discharge of a person from the control of the department at the time required by Section 1769, 1770, 1770.1, or 1771, as applicable, would be physically dangerous to the public because of the person's mental or physical **deficiency, disorder, or abnormality**, the Board, through its chairman, shall make application to the committing court for an order directing that the person remain subject to the control of the authority beyond such time.*

Sections 4191 is adopted to more clearly implement W&I Code Sections 1800 and 1800.5 with respect to the authority to apply for a W&I Code Section 1800 extension and to make specific the reasons for filing the W&I Code Section 1800 application.

Section 4192, which was repealed in 1985, remains unchanged.

Section 4192.5, which deals with staff recommendations for extension of jurisdiction and confinement time, is repealed. Staff no longer make recommendations of extension of jurisdiction and confinement time to the Juvenile Parole Board, so the information is outdated.

Section 4193 is repealed because the previous language for this section is no longer considered essential for the regulations.

Section 4195, which was repealed in 1985, remains unchanged.

Section 4196 is repealed since all four of the sections which it lists as applicable provisions are no longer in existence, or are being repealed.

Reasonable Alternatives

The DJJ has determined that no reasonable alternative has been identified and brought to the attention of the agency or would be as effective as and less burdensome to affected private persons than the proposed action.

Reasonable Alternatives That Would Lessen Any Adverse Economic Impact on Business

The DJJ has not identified any alternatives that would lessen any adverse impact on small businesses.

Documents Relied Upon

November 2004, Superior Court of California, *Farrell v. Allen* (now Cate), County of Alameda, Case No. RG 03079344, Consent Decree

January 2005, Superior Court of California, *Farrell v. Allen* (now Cate), County of Alameda, Case No. RG 03079344, Stipulation

August 24, 2006, California Department of Corrections and Rehabilitation, Division of Juvenile Justice, Mental Health Remedial Plan