

NOTICE OF PROPOSED REGULATORY ACTION

(California Code of Regulations Title 15, Crime Prevention and Corrections California Department Of Corrections and Rehabilitation)

NOTICE IS HEREBY GIVEN that the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) proposes to adopt Section 4190, Title 15, Division 4, Article 1, of the California Code of Regulations (CCR), and to adopt Section 4191, Title 15, Division 4, Article 2, of the CCR pertaining to Extended Confinement Time and Jurisdiction Over Dangerous Persons. The DJJ also proposes to repeal Section 4192.5, Title 15, Division 4, Article 2, of the CCR, to repeal Section 4193, Title 15, Division 4, Article 2, of the CCR, and to repeal Section 4196, Title 15, Division 4, Article 3, of the CCR, pertaining to Extended Confinement Time and Jurisdiction Over Dangerous Persons.

WRITTEN COMMENT PERIOD

The public comment period will close on May 3, 2010. Any interested person may submit public comments in writing by mail, fax, or e-mail relevant to this proposed regulatory action. To be considered by the DJJ, written comments must be submitted to the DJJ, Policy, Procedures, Programs, and Regulation (PPP&R) Unit, 4241 Williamsborough Drive, Suite 117, Sacramento, CA 95823; by fax at (916) 262-2608; or by e-mail at Tony.Smith@cdcr.ca.gov before the close of the comment period.

PUBLIC HEARING

The DJJ has not scheduled a public hearing on this proposed action. However, the DJJ will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

AUTHORITY

Welfare and Institutions (W&I) Code, Section 1712 assigns responsibility to the CDCR, DJJ to make and enforce all rules appropriate to the proper accomplishment of the functions of the DJJ.

REFERENCE

This action is proposed to implement, interpret, and/or make specific Sections 1800 and 1802 of the W&I Code.

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CONTACT PERSON

Please direct any inquiries regarding this action to:

Tony Smith
Policy, Procedures, Programs, and Regulations Unit
Division of Juvenile Justice
(916) 262-2743

Questions regarding the substance of the proposed regulations should be directed to:

Dr. Juan Carlos Arguello
Division of Juvenile Facilities
Division of Juvenile Justice
(916) 262-2777

In the event the contact persons are not available, inquiries may be directed to the following back-up contact:

Angelina Parker
Policy, Procedures, Programs, and Regulations Unit
Division of Juvenile Justice
(916) 262-1550

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None
- Cost or savings to any state agency: None
- Other non-discretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: None

EFFECT ON HOUSING COSTS

The DJJ has made an initial determination that the proposed regulations will not have a significant effect on housing costs.

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COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The DJJ is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The DJJ has determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability to compete with businesses in other states.

EFFECT ON SMALL BUSINESS

The DJJ has determined that the proposed regulations will not affect small business due to the fact the rules apply only to DJJ staff.

ASSESSMENT

The DJJ has determined that the proposed regulations will have no effect on the creation of new jobs or businesses within California or the elimination of existing jobs or businesses, nor would the regulations affect the expansion of businesses currently operating within California.

ALTERNATIVES CONSIDERED

The DJJ has determined that no reasonable alternative that has been identified and brought to the attention of DJJ would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND PROPOSED TEXT

The DJJ has prepared, and will make available, the initial statement of reasons and the proposed text of the regulations. All documents pertaining to this regulatory action, including the express terms of this proposed action and all information on which the proposal is based (i.e., rulemaking file), are available to the public upon request from the agency contact person indicated within this notice.

INTERNET ACCESS

Materials regarding this proposed regulatory action can be accessed from the CDCR's website at <http://www.cdcr.ca.gov>

AVAILABILITY OF FINAL STATEMENT OF REASONS

Once completed, the final statement of reasons will be available upon request from the agency contact person indicated within this notice and posted at the above CDCR website.

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FORMS

Forensic Evaluation Summary Form (DJJ 8.292, New 08/08)

Youth Receipt of Information Form (DJJ 8.290, New 11/08)

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AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the DJJ, upon its own motion, may adopt the proposal substantially as set forth above without further notice.

If the regulation text is modified by the DJJ and the changes are sufficiently related to the originally proposed action, the DJJ will make the modified text available (with the changes clearly indicated) to the public for at least 15 days prior to adopting the amended regulations. The DJJ will accept written comments pertaining to only the modified text during the 15-day period prior to adoption of the revised text. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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.

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.