

DEPARTMENT OF CORRECTIONS AND REHABILITATION

DIVISION OF JUVENILE JUSTICE

Title 15, California Code of Regulations

Sections 4710, 4711, 4712, 4713, 4714

Contraband and Searches

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) proposes to amend Sections 4710, 4711, 4712, 4713 and 4714 of Title 15, Division 4, Subchapter 2, Article 2 of the California Code of Regulations (CCR) pertaining to Contraband and Searches.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the DJJ. Comments may also be submitted by facsimile (FAX) at (916) 262-2608 or by email to DJJ-PPPR@cdcr.ca.gov. The written comment period closes at 5:00 p.m. on March 8, 2010. The DJJ will consider only comments received at the DJJ offices by that time. Submit comments to, Policy, Procedures, Programs and Regulations Unit (PPP&R) 4241 Williamsborough Drive, Suite 117, Sacramento, CA 95823.

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

Section 1712 of the Welfare and Institutions Code (W&I) Code establishes the secretary is authorized to make and enforce all rules appropriate to the proper accomplishment of the functions of the Division of Juvenile Facilities, Division of Juvenile Programs, and Division of Juvenile Parole Operations.

REFERENCE

The California Department of Corrections and Rehabilitation (CDCR) policy and procedures relative to asset forfeiture are appropriately covered in the CDCR Departmental Operations Manual (DOM) Policy No. 08-31, dated 7-23-08. The procedures in this policy outline the asset forfeiture process to be utilized by staff within the CDCR, the Division of Adult Institutions (DAI), Division of Adult Parole Operations (DAPO) the Division of Juvenile Justice (DJJ), Office of Internal Affairs (OIA) and the Office of Correctional Safety Standards (OCS).

The Health and Safety Code, Section 11469 – 11495 annotate State Statute which provide guidelines for utilizing seizure and forfeiture including provisions to allow for 65 percent of forfeited proceeds to go to the participating law enforcement agencies.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking clarifies and makes specific Section 224.70(e) of the W&I Code that “Youth” means any person detained in a facility of the Division of Juvenile Facilities.

The proposed amendments to these regulations establish a process that is applicable to all youth in the custody of DJJ and staff conducting searches to prevent contraband from entering and circulating at a Youth Correctional Facility (YCF), and to locate stolen property. To further implement the policy, the DJJ submits these proposed amendments to these regulations.

Title 15, Division 4, Chapter 3, Subchapter 2, Article 2, Section 4710 defines contraband and the general guidelines that contraband is an item which, if possessed, could by its very nature be injurious to persons or property, would adversely affect program objectives of institutional security or would require an inordinate amount of staff resources to keep secure or supervise. The facility must post a notice which states that all visitors, staff, volunteers and guests, including their property and vehicles entering the facility, are subject to being searched on either a regular or random basis.

Form DJJ 4.744 (New 08/09) Youth Property Receipt is incorporated by reference in the regulation text.

CONTACT PERSON

Please direct any inquiries regarding this action to:

Phyllis Green
Policy, Procedures, Programs and Regulations Unit
Division of Juvenile Justice
(916) 262-3178

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

Jeff Plunkett
Division of Juvenile Facilities
Division of Juvenile Justice
(916) 262-1542

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

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 or a mandate which requires reimbursement pursuant to Government Code Sections 17500-17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other non-discretionary costs or savings imposed on local agencies: None.
- Costs or savings in federal funding to the state: None
- Significant, statewide adverse economic impact, directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: None.

EFFECT ON HOUSING COSTS

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The DJJ is not aware of any cost impact that a representative private person or business would 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 of California businesses 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 practitioners employed by the DJJ.

ASSESSMENTS REGARDING EFFECTS ON JOBS/BUSINESS

The DJJ has determined that the proposed regulations will have no affect on the creation of new or the elimination of existing jobs or businesses, or the expansion of businesses within the State of California.

ALTERNATIVES CONSIDERED

The DJJ must determine that no reasonable alternative it considered or that has been identified and brought to the attention of the agency 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 PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The DJJ has made available the initial statement of reasons and the proposed text of the regulations. All documents pertaining to this regulatory action (rulemaking file) will be available on the California Department of Corrections, Division of Juvenile Justice website www.cdcr.ca.gov. Following its preparation, a copy of the Final Statement of Reasons will also

be made available upon request from the agency contact person or posted on the above DJJ website.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the DJJ may adopt the proposed regulations 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.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Angelina Parker at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the California Department of Corrections, Division of Juvenile Justice website www.cdcr.ca.gov.