

**State of California
Office of Administrative Law**

In re:
**Department of Corrections and
Rehabilitation**

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections:

Amend sections: 3294.5

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**

**Government Code Sections 11349.1 and
11349.6(d)**

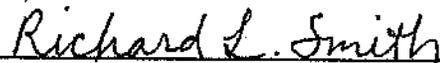
OAL Matter Number: 2019-0207-06

**OAL Matter Type: Certificate of Compliance
(C)**

The Department of Corrections and Rehabilitation (Department) proposed this action to amend a regulation and to adopt an incorporated by reference form that sets forth procedures for inmates and parolees to change their names so that the Department's procedures conform to the change of name provisions in Code of Civil Procedure section 1279.5, as amended in S.B. 310 (Stats. 2017, c. 856).

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: February 26, 2019



Richard L. Smith
Senior Attorney

For: Debra M. Cornez
Director

Original: Ralph Diaz, Acting Secretary

Copy: Rosie Ruiz

NOTICE PUBLICATION/REGULATIONS SUBMISSION

LEERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

request *rm*

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2018-0828-18	REGULATORY ACTION NUMBER 2019-0207-06C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

FEB 26 2019
1:45 PM

1 2019 FEB -7 P 3:58
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY California Department of Corrections and Rehabilitation	AGENCY FILE NUMBER (if any) 18-0234
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER 2018 362	PUBLICATION DATE 9/7/2018

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Inmate and Parolee Name Change	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2018-0802-04EON
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADAPT
AMEND 3294.5
REPEAL
TITLE(S) 15

3. TYPE OF FILING
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11349.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____

7. CONTACT PERSON Rosie Ruiz	TELEPHONE NUMBER 916-445-2244	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) rosie.ruiz@cdcr.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>K. Allison</i>	DATE 2/6/19
TYPED NAME AND TITLE OF SIGNATORY Kathleen Allison, Undersecretary (A), Operations	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 26 2019

Office of Administrative Law

TEXT OF ADOPTED REGULATIONS

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole

Chapter 1, Rules and Regulations of Adult Operations and Programs

The title of Section 3294.5 is amended to read:

Section 3294.5. Inmate and Parolee Name Change.

Subsection 3294.5(a) is amended to read:

(a) An inmate or parolee who wishes to petition the court for a legal name change shall submit a CDCR Form 2010 (06/18), Notice of Legal Name Change Petition, which is incorporated by reference, with a copy of all documents submitted to the court to the Warden or Regional Parole Administrator (RPA) at the time the petition is submitted to the court.

Subsection 3294.5(b) is amended to read:

(b) Upon receipt from the court, the inmate or parolee shall provide a copy of the Order to Show Cause (OSC) to the Warden or RPA within three calendar days of receipt.

Subsection 3294.5(c) is amended to read:

(c) Upon receipt of the CDCR 2010 by the Warden or RPA, a Correctional Counselor (CC) II or the Division of Adult Parole Operations (DAPO) Regional Litigation Coordinator shall be assigned to conduct a review of the inmate or parolee's records. Within ten business days of receipt, the assigned CC II or DAPO Regional Litigation Coordinator shall document their review in a memorandum with a recommendation provided on the CDCR Form 2010 to the Warden or RPA. This review shall include the research, evaluation, and documentation of the following:

Subsections 3294.5(c)(1) through (c)(5) are adopted to read:

- (1) Commitment offense(s).
- (2) Whether the inmate or parolee is required to register pursuant to Penal Code Section 290.
- (3) Identification of victim(s) name(s).
- (4) Whether the requested name is offensive (for example, racial epithets, vulgar, or a racial slur) or could be disruptive in an institution setting.
- (5) Whether there is documentation indicating the request is intended for a fraudulent purpose.

Subsection 3294.5(d) is amended to read:

(d) Within three business days of receipt, the Warden or RPA shall review the recommendation provided by the assigned reviewer and document their recommendation on the CDCR 2010. The Warden or RPA shall ensure a copy of the memorandum and the CDCR Form 2010 is scanned and placed into the miscellaneous section of the inmate or parolee's central file via the Electronic Records Management System (ERMS), as defined in section 3000.

Subsection 3294.5(e) is amended to read:

(e) If there is cause to object to the petition, within one business day after completing the review, the Warden or RPA shall forward the memorandum, petition, OSC, any supporting documents and the CDCR Form 2010 to the Office of Legal Affairs (OLA) at Headquarters for review. OLA shall review the recommendation within five business days to determine if an objection is warranted. If OLA determines the objection is warranted, OLA shall seek assistance from the Office of the Attorney General to file an objection to the name change with the court.

Subsection 3294.5(f) is amended to read:

(f) If a court order denying a petition is received from the court, a copy of the court order shall be scanned and placed in the miscellaneous section of the inmate / or parolee's central file via ERMS.

Subsection 3294.5(g) is amended to read:

(g) Within five business days of receiving from the court a certified court order granting a name change, the Correctional Case Records Manager (CCRM) shall ensure the new name is reflected within the Strategic Offender Management System (SOMS), as defined in section 3000. Once the new name is changed within SOMS, the inmate shall be provided an updated identification card reflecting their new name and shall be charged for the replacement cost unless the inmate has been determined to be indigent as defined in section 3000. The CCRM shall notify the inmate or parolee, the inmate's assigned correctional counselor, inmate assignment office, mailroom, receiving and release, visiting room, and the Office of Victim and Survivor Rights Services if the offender is incarcerated; or shall notify the agent of record if the offender is on parole. The court order shall be placed in the miscellaneous section of the inmate or parolee's ERMS file, along with any other documents related to the request for a name change.

Subsections 3294.5(h) through (j) are deleted.

Subsection 3294.5(k) is renumbered to 3295(h) and is amended to read:

(h) The inmate shall be notified to inform all persons who may visit or write them that they must use the inmate's departmental identification number when using the inmate's new name.

Subsection 3294.5(l) is deleted.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Section 1279.5, Code of Civil Procedure.

NOTICE OF LEGAL NAME CHANGE PETITION

CDCR 2010 (06/18)

INMATE/PAROLEE INFORMATION

Inmate/Parolee Name: _____ CDCR #: _____ Housing/Parole Unit: _____

Proposed Name on Petition: _____

Date Petition Submitted to Court: _____

Requested Court Hearing Date (If Applicable): _____

Documents Included with Notice: _____

Date Petition submitted to Warden/Regional Parole Administrator (RPA): _____

Inmate/Parolee Signature: _____ Date Signed: _____

WARDEN/REGIONAL PAROLE ADMINISTRATOR REVIEW:

Date Petition Received: _____

Assigned Reviewer: _____

Date Due: _____

Reviewers Recommendation:

Concur with Name Change Petition:

Object to Petition:

Reviewer: _____ Title: _____ Signature: _____ Date Completed: _____
(Print Name)

Warden/Regional Parole Administrator Decision:

Concur with Name Change Petition:

Object to Petition:

Warden/RPA: _____ Signature: _____ Date Completed: _____
(Print Name)

SAMPLE

FINAL STATEMENT OF REASONS:

The Initial Statement of Reasons (ISOR) is incorporated by reference.

UPDATES TO THE INITIAL STATEMENT OF REASONS:

The Notice of Emergency regulations was published in the California Notice Register on September 7, 2018, which began the public comment period. Notice of Change to Regulations (NCR) 18-07, including the text of the regulations, CDCR Form 2010, and the Initial Statement of Reasons was mailed the same day to persons who requested to be placed on the Department's mailing list to receive notifications of rulemaking actions. These documents were also posted on the Department's Internet and Intranet websites. During the 45-day comment period, two written comments were received. These comments are discussed below under the heading, "Summaries and Responses to Written Public Comments." The public hearing was held on October 29, 2018, the final day of the public comment period. There were five speakers at the public hearing. These comments are discussed below under the heading, "Summaries and Responses to Public Comments Received at Public Hearing."

NON-SUBSTANTIVE CHANGES TO THE PROPOSED TEXT:

Non-substantive formatting changes and typographical errors and/or omissions are corrected throughout the text to ensure clarity and consistency.

INCORPORATED BY REFERENCE:

CDCR Form 2010 (06/18), Notice of Legal Name Change Petition, is incorporated by reference. This form was made available to the public throughout the rulemaking process and will continue to be made available upon request.

The Department uses over 1,500 regulatory forms, including the above-referenced form, and because of this high volume it would be unduly cumbersome, expensive, and impractical to print all the forms in the Title 15. Therefore, Department forms are incorporated by reference into the Title 15 where appropriate.

DETERMINATION:

The Department has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the action proposed. No reasonable alternatives were brought to the attention of the Department that would alter the Department's initial determination.

ASSESSMENTS, MANDATES, AND FISCAL IMPACT:

This action will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California because they are not directly affected by the internal management of inmates in State prisons.

The Department has determined this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4 of the Government Code. No fiscal impact on State or local government or Federal funding to the State or private persons. It is also determined that this action neither affects small businesses nor has a significant adverse economic impact on businesses, including the ability of

California businesses to compete with businesses in other states because they are not directly affected by the internal management of inmates in State prisons. The Department has made an initial determination the proposed action will have no significant effect on housing costs. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

The Department, in proposing adoption of these regulations, has not relied upon any technical, theoretical, or empirical study, report, or similar document.

SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS:

Commenter #1:

Comment 1A: Commenter states that the proposed regulations for inmate and parolee name change still seem to require approval from the Warden or Regional Parole Administrator of the name change request. Commenter states the Department officials still review the inmate or parolee's records and the Department's Office of Legal Affairs also reviews the name change request and is able to arbitrarily object to the request for name change even if the request does not meet any of the provisions outlined in subsection 3294(c). Commenter states this situation appears to leave a back door for correctional officials to insert their faulty opinions for denying the request for name change while allowing them to claim a different reason/ justification for denying the request for name change.

Response to Comment 1A: The proposed regulation provides that inmates and parolees file a petition for name change directly with the court before providing copies of the petition and other documents to the Warden or Regional Parole Administrator (RPA). Therefore, approval from a Warden or a Regional Parole Administrator is not required for an inmate or parolee to file a petition with the court. Code of Civil Procedure (CCP) subsections 1277(a)(1) and 1277.5(a)(1) permits any person ("all interested persons") to file an objection to the petition for name change. CDCR's proposed regulations go further by providing specific review criteria in California Code of Regulations, subsection 3294(c). After a review is conducted by a Correctional Counselor II or a Regional Litigation Coordinator, the matter is then reviewed by a Warden or Regional Parole Administrator. Finally, if institutional staff makes a recommendation for an objection CDCR's Office of Legal Affairs (OLA) conducts a legal review to determine whether an objection is warranted.

Commenter #2

Comment #2 was submitted by the organizations that were represented at the public hearing. While the comments are similar to those made at the public hearing, they are not identical and are therefore presented separately.

Comment 2A: Commenter states the terms "offensive" and "disruptive" that are included as part of the review criteria listed in subsection 3294.5(c)(4) are subjective and overbroad and as such have the potential for facility staff to use these reasons as an objection to the request for name change in almost any circumstance.

Commenter suggests removing subsection 3294.5(c)(4) from the regulations or in the alternative, provide examples of "disruptive" name change proposals so that facility staff can know how severe the risk of disruption must be to warrant an objection.

- In regards to the term “disruptive,” Commenter notes that it is difficult to assess what is “disruptive in an institution setting.”
- In regards to the term “offensive,” Commenter states that although this term is also largely subjective, at least examples are provided for clarity.

Response to Comment 2A: As stated in the ISOR for these regulations subsection 3294(c)(4) is adopted to “ensure the requested name is not offensive (e.g., racial epithet, vulgar, or a racial slur) or could be disruptive in an institution setting, or deemed insensitive or offensive to the inmate population that could pose a security risk. The Department will need to review and identify if there is a legitimate penological interest in objecting to a name change believed to meet this criteria. Allowing an inmate to change their name to something offensive could result in disruption inside of an institution. If an inmate was allowed to change their name to something racially insensitive or vulgar it could result in increased tension amongst the inmate population.” An experienced staff member (Correctional Counselor II or Regional Litigation Coordinator) begins the process by reviewing the applicant’s records and preparing a memorandum documenting their review, making sure the review includes the listed items in subsection 3294.5(c). Any staff recommendation must go through review by a Warden or RPa, followed by review by OLA, with any objection filed by the Attorney General’s (AG) Office.

Comment 2B: Commenter states that often times; the very existence of transgender inmates is labeled “disruptive” or “offensive” by facility staff and other correctional authorities, but notes that CCP subsection 1277.5(b) clearly provides that a name change request cannot be objected to based solely on the petitioner’s gender identity. Commenter states CDCR should clarify that name changes will not be considered “disruptive” simply because they are related to a petitioner’s identity.

Response to Comment 2B: See Response to Comment 2A. The court makes the decision and is bound by the law, including CCP subsection 1277.5(b) and Health and Safety Code subsection 103430(b)(2)(A), which states in part, “Objections based solely on concerns over a petitioner’s actual gender identity shall not constitute good cause.”

Comment 2C: Commenter suggests CDCR add language to subsection 3294.5(a) to state that facility staff will provide petitioner with written confirmation of receipt of the CDCR Form 2010 and name change documents within one business day of receipt of the documents. Commenter states this will save Department staff time because petitioners will not have to follow up or inquire about Department receipt of these documents. Additionally, Commenter notes that promptly confirming the receipt of all required name change request documentation will reduce anxiety of staff assessing the name change process.

Response to Comment 2C: Requiring CDCR to provide written confirmation the Department received the name change documents within one business day is unnecessary. Receiving or not receiving written confirmation of the petition will not hinder or delay the regular legal process for the petition to be considered by the court. Should a petitioner wish to inquire if the name change documents were received, a response back to the petitioner would require minimal staff time and resources.

Comment 2D: Commenter states that subsection 3294.5(e) should be amended to add language that within three business days of CDCR’s decision to object or not object to the name

change petition, CDCR will transmit a copy of the CDCR Form 2010 to the petitioner reflecting this decision.

Commenter states that individuals who have filed a petition for name change are anxious to hear word whether the Department plans to object to the name change petition or not. Advising the petitioner that CDCR does not plan to object to the name change petition will quell fears. In the alternative, if the Department does intend to file an objection to the name change, making the petitioner aware of this information including the reason(s) for the objection will allow the petitioner to better prepare for the name change hearing or determine if withdrawing the petition is more appropriate.

Response to Comment 2D: In a case where CDCR does intend to file an objection the inmate/parolee will be served with a copy of the objection at the address on file with the court. It does not make sense to require CDCR to get a copy of the objections filed by the AG then give a copy to the petitioner when the petitioner will be receiving a copy as part of the regular legal process.

Comment 2E: Commenter states that if the Department objects to the name change, CDCR should include on the CDCR Form 2010, the reason for the objection to the name change. Providing this information would increase Department transparency in regards to petitions for name change, such as submissions, reviews, and reason for denial and would also address due process as the petitioner would be able to gain a better understanding of CDCR's objection to their name change petition and allow for a meaningful opportunity to respond.

Response to Comment 2E: The CDCR Form 2010 is the beginning of a process that sometimes will result in objections being filed with the court by the AG's Office on behalf of CDCR. The CDCR Form 2010 is a tool for Wardens and Regional Parole Administrators when they are determining whether or not to recommend to OLA that an objection be filed. The recommendation contained in the CDCR Form 2010 is not intended to be a substitute for the legal paperwork of the objection itself. In a case where an objection is filed with the court, the AG's Office, on behalf of CDCR, will serve the inmate or parolee petitioner with a copy of the objections filed with the court. This regular legal process will inform the petitioner of CDCR's objections. Finally, the majority of documents filed with courts are available for review and copying by any member of the public.

Comment 2F: Commenter states that subsection 3294.5(b) should be amended to provide that a petitioner must provide a copy of the Order to Show Cause (OSC) to the Department at least 14 calendar days prior to any scheduled court date instead of the current requirement of providing a copy of the OSC to CDCR "within three calendar days of receipt."

Commenter states that an incarcerated person is faced with additional challenges associated with mail transmission in prison. Commenter states that three business days may be burdensome to the petitioner is an incarcerated individual, but 14 calendar days may provide an adequate amount of time and notice for CDCR staff to make arrangements related to a scheduled court hearing.

Response to Comment 2F: CDCR's proposed regulations have time frames that CDCR has determined are appropriate for all of the internal steps included in consideration of petitions for name changes. The Department finds that three calendar days is sufficient time for an offender to provide the OSC using the institutional mail system. There are no known barriers for offenders

to mail documents using the institutional mail system and the Commenter has provided no details on what the perceived challenges or burdens for an offender to use the institutional mail system.

Comment 2G: Commenter states the proposed regulations need to include language to clarify that if a court hearing is required, the Department will make appropriate accommodations for the petitioner-inmate to attend the hearing either in person or by teleconference. Additionally, Commenter recommends remote participation for the petitioner-inmate if remote participation is an option as the transportation to court of transgender inmates or parolees is often a difficult experience.

Response to Comment 2G: CDCR notes the law states that a hearing date “shall not be set ... unless an objection is timely filed and shows good cause for opposing the name change.” (CCP subsection 1277.5(b).) In those cases where a hearing date is set, for an inmate to attend any court hearing, a valid removal order from the court is necessary. The statutes regarding name change petitions by inmates do not address attendance at hearings either in person or via teleconference. CDCR expects that any court orders for attendance will comply with applicable statutes and case law. Any court orders for the removal of an inmate to attend a hearing on an OSC regarding a petition for name change will be considered on a case-by-case basis.

Comment 2H: Commenter suggests amending subsection 3294.5(g) to provide additional guidance to Department staff to address the petitioner-inmate with the new name and appropriate gender marker if applicable when the name change petition is granted. Although this subsection provides specifics for making the necessary changes to the Department’s written records when a name change is granted, the regulations do not provide sufficient guidance to staff in appropriately addressing petitioner-inmates verbally.

Commenter notes that using the correct name and gender marker is extremely important for the dignity and mental well-being of transgender individuals and states that facility staff already largely ignore Department policy concerning the misgendering of transgender people. Commenter states this additional language concerning verbally addressing the inmate with the approved name change by the appropriate gender marker if applicable is crucial to implementing the law as it was intended.

Response to Comment 2H: This proposed regulation implements changes in the statutes regarding inmate and parolee name and gender changes. The statutory changes being implemented do not address gender markers and staff member’s addressing inmates verbally. Therefore CDCR is not addressing these topics in these regulations.

Comment 2I: Commenter states that subsection 3294.5(c)(1), review of petitioner’s commitment offenses, should be removed from the review criteria because it is not relevant to the name change petition as there is no criminal charge that would render an individual ineligible from exercising their legal right to name change. Commenter states that Statute already provides for a higher standard for petitioners who are required to register under Penal Code (PC) Section 290 and CDCR already addresses these kinds of petitioners elsewhere in the CDCR Form 2010 when reviewing a petition for name change.

Further, Commenter states that the Department’s review of the petitioner’s charges appears to be redundant to the background check and vetting process already performed by the Superior Court.

Response to Comment 2I: CDCR’s Form 2010 does not include information regarding whether or not a petitioner is obligated to register as a sex offender under PC Section 290. The

court is not obligated to do a “background check and vetting process.” The court is only obligated to determine whether or not an offender is obligated to register as a sex offender. (CCP subsection 1279.5(f).)

A commitment offense can be relevant in an analysis of an offender’s petition for a name change. CDCR’s original name change regulation followed the Legislature’s 1994 enactment of former CCP Section 1279.5. Former CCP Section 1279.5 was drafted in response to an inmate harassing a victim and her family, using the new name. The inmate had changed his name to that of the victim’s father (divorced from her mother). He used the new name to harass the victim and her family, including filing change of address forms with the U.S. Postal Service and having their mail forwarded to him in prison, using forged power-of-attorney forms to obtain private documents, fraudulently obtaining a credit report and tax returns, and threatening them despite their moving several times to unlisted addresses. (Sen. Com. Public Safety, Analysis, Sen. Bill No. 310 (2017-2018 Reg. Sess.) as introduced, March 28, 2017, page 5.)

Comment 2J: Commenter suggests that CDCR add a new subsection, following current subsection 3294.5(d), to explicitly state that the petitioner can still proceed with their name petition in the event the Department objects to their petition.

Commenter states this is necessary because for so long the Department was empowered by law to unilaterally deny a petition for name change and prohibit a person under their jurisdiction from filing the name change petition with the court. Commenter states that inmate and parolee petitioners should be reminded that they can submit a name change petition to the courts even if the Department objects to the name change petition.

Response to Comment 2J: The proposed regulations make it clear that CDCR’s approval is not required for an inmate or parolee to file a petition for a name change and that inmates and parolees file a petition for name change directly with the court before providing copies of the petition and other documents to the Warden or RPA.

SUMMARIES AND RESPONSES TO PUBLIC COMMENTS RECEIVED AT PUBLIC HEARING

Speaker #1:

Speaker 1A: Speaker states that CDCR’s ability to object to a name change petition based on the reasoning that the requested name could be disruptive in an institutional setting is overly broad and his office is concerned that facility staff may invoke this reason for objection at any time. Speaker suggests deleting this objection criteria or to provide examples that would illustrate to custody staff how severe the disruption needs to be to warrant an objection. Additionally, Speaker requests that a requested name is not considered to be disruptive simply because the petition is associated with petitioner’s gender identity.

Response to Speaker 1A: See Response to Comment 2A.

Speaker 1B: Speaker requests that within three business days, the Department advises the petitioner if the Department plans to object or not object to the petition. Speaker states that petitioners anxiously await to hear word regarding the outcome of their petition from the Department and that if the Department advises that they plan to object to the petition, letting the petitioner know would allow for the petitioner to be more prepared for the name change hearing. The petitioner would be able to more fully understand the circumstances of the petition and be able to speak to their petition better at the hearing, or withdraw the petition if necessary.

Response to Speaker 1B: See Response to Comment 2D.

Speaker 1C: Speaker suggests that the Department include in all Department forms associated with an inmate request for name change, including the CDCR Form 2010, a statement reiterating to the inmates and parolees that they do not have to receive authorization from the Department before submitting to the courts a name change petition. This is necessary because of the long standing history for an inmate or parolee to receive approval from the Department before seeking a name change from the courts.

Response to Speaker 1C: See Response to Comment 2J.

Speaker 1D: The inmate petitioning for a name change could have been corresponding or applying to visit with people outside the prison who would not necessarily be aware of the inmate's request for name change. In the event the inmate's name change petition is granted, Speaker suggests that CDCR establish a system for mail to be forwarded or visiting requests to be applied to the inmate with his or her new name. Speaker suggests a transition period of six months.

Response to Speaker 1D: It is the offender's responsibility to notify all persons who may visit or write him/her utilizing the offenders CDCR number when using the new name. Individuals who wish to correspond with an offender are directed to provide the offenders full name, CDCR number, Institution Name and address. The offenders CDCR number does not change because of the name change petition which allows the Department to direct the offender's mail appropriately should a person use the prior name.

Speaker 1E: Speaker requests for CDCR to provide additional guidance to institution staff to clarify the necessity for updating Department records and for addressing the inmate by the granted requested name and using appropriate accompanying pronouns if applicable when a request for name change is granted.

Response to Speaker 1E: Subsection 3294.5(g) is very detailed regarding notification and documentation of a court-ordered name change. The law being implemented requires CDCR to use the new name in documentation, and therefore CDCR's proposed regulation covers documentation. (CCP subsection 1279.5(d).) As to staff verbally addressing the inmate by the granted requested name and appropriate pronouns, see Response to Comment 2H.

Speaker #2:

Speaker 2A: Speaker requests the Department add language to specify that within one business day of receipt of the CDCR Form 2010 and accompanying name change petition paperwork, facility staff will provide written confirmation to the inmate. This will reduce anxiety for the Department staff that is evaluating the request for name change. Promptly advising the inmate of receipt of the CDCR Form 2010 and accompanying name change forms will also save the Department time and money by reducing the need for petitioners to follow up with Department staff regarding their petition and whether all paperwork was received.

Response to Speaker 2A: See Response to Comment 2C.

Speaker 2B: Speaker states that the right for an inmate or parolee to directly petition the court for a name change is crucial for transgender and non-binary individuals. The recommendations suggested by the Transgender Gender-variant Intersex Justice Project and

Transgender Law Center are in line with the spirit of the law to ensure that incarcerated individuals can petition directly to the court for a legal name change.

Response to Speaker 2B: See Response to Comment 2J.

Speaker 2C: Speaker requests that a section is added to the CDCR Form 2010 for the Department to provide their reason for the objection to the name change if the Department objects.

Response to Speaker 2C: See Response to Comment 2E.

Speaker #3:

Speaker 3A: Speaker suggests clarifying or expanding upon the criteria for objection to a name change, especially the provision to object to a name that is disruptive in an institutional setting is overbroad and subjective.

Response to Speaker 3A: See Response to Comment 2A.

Speaker 3B: Speaker states the regulations do not offer petitioners a tracking mechanism of their petition as it travels through the Department. To remedy this, Speaker states the Department should provide petitioner at the time the CDCR Form 2010 and inmate name change forms are provided to Department staff. At the time the receipt is provided, Speaker states that the petitioner should also be provided the steps the Department will take in informing a petitioner of an objection to the name change petition at the time the objection is made in the event the Department objects.

Speaker states that these suggestions are in line with the spirit of the law to ensure that incarcerated and paroled individuals are able to petition the courts directly for a legal name change.

Response to Speaker 3B: See Responses to Comments 2C, 2D, and 2E.

Speaker #4:

Speaker 4A: Speaker states that people are obligated to participate in this name change process in order to go through the transgender process-gender and sex change.

Response to Speaker 4A: California Correctional Health Care Services (CCHCS) provides medical care to persons in custody. The custody regulations of the Department do not determine the medical care an inmate may receive. CCHCS is in charge of the local and statewide policies for inmate health care services and may be contacted at the following address:

California Correctional Health Care Services
P.O. Box 588500
Elk Grove, CA 95758

Speaker #5:

Speaker 5A: Speaker states that subsection 3249.5(b) needs a little clarification in regards to the word “receipt” as this issue can be more complex than anticipated.

For inmates, when the Department states “receipt,” Speaker asks if the Department means the date the institution mailroom received the document, or the documented date the inmate actually received the document.

For parolees, Speaker asks if the Department means that the parolee needs to provide a copy of the OSC within three business days from the stamped “endorsed” date on the OSC. The Speaker asks for clarification on this requirement to make sure that parolees are aware of what they need to do so they can comply with this section.

Response to Speaker 5A: The proposed regulation read in part, “Upon receipt from the court, the inmate or parolee shall provide a copy of the Order to Show Cause....” Because the phrase “Upon receipt from the court” comes before the phrase “the inmate or parolee shall provide a copy of the Order to Show Cause within three calendar days of receipt,” the proposed regulation addresses the inmate or parolee’s receipt of the OSC, not the mailroom’s receipt. As to parolees, the proposed regulation reads, “Upon receipt from the court, the inmate or parolee shall provide a copy of the Order to Show Cause within three calendar days of receipt.” Again, because the phrase “Upon receipt from the court” comes before the phrase “the inmate or parolee shall provide a copy of the OSC within three calendar days of receipt,” the proposed regulation addresses the inmate or parolee’s receipt of the OSC, not another date.