



Department of Corrections and Rehabilitation

**NOTICE OF CHANGE TO REGULATIONS**  
**Section: 3294.5**

Number:  
18-07

Publication Date:  
September 7, 2018

Effective Date:  
September 1, 2018

**INSTITUTION POSTING AND CERTIFICATION REQUIRED**

This Notice announces the proposed amendment of Section 3294.5 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into Division 3, Chapter 1, provisions regarding Inmate and Parolee Name Change.

**PUBLIC COMMENT PERIOD**

The public comment period is from **September 7, 2018** to **October 29, 2018**, and will close on **October 29, 2018 at 5:00 p.m.** Any person may submit written comments about the proposed regulations by mail to the California Department of Corrections and Rehabilitation (CDCR), Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, or by e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). All written comments must be received or postmarked no later than **5:00 p.m. on October 29, 2018**.

**PUBLIC HEARING INFORMATION**

A public hearing regarding these proposed regulations will be held **on October 29, 2018, from 9:00 a.m. to 10:00 a.m. in the Conference Room 100N, located at 1515 S Street, North Building, Sacramento, CA 95811**. The purpose of the hearing is to receive comments about this action. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written comments submitted during the prescribed comment period are given the same significance and weight as verbal comments presented at the hearing. This hearing site is accessible to the mobility impaired.

**POSTING**

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each Department facility and field office not later than five calendar days after receipt. Also, institutions and facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies, and shall distribute it to inmate law libraries and advisory councils. CDCR Form 621-A (Rev. 04/18), Certification of Posting, shall be returned to RPMB by mail or email. See Department Operations Manual Sections 12010.12.1 and 12010.12.2 for posting and certification of posting procedures.

**CONTACT PERSON**

Inquiries regarding this Notice should be directed to R. Ruiz, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2269, or e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Inquiries regarding the subject matter of these regulations should be directed to T. Tyler, Division of Adult Institutions, at (916) 324-1029.

RALPH M. DIAZ  
Undersecretary, Operations  
California Department of Corrections and Rehabilitation

Attachments



## NOTICE OF PROPOSED REGULATIONS

### California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes amend Section 3294.5 of California Code of Regulations (CCR), Title 15, Division 3, Chapter 1, regarding Inmate and Parolee Name Change.

#### **PUBLIC HEARING:**

Date and Time: **October 29, 2018 – 9:00 a.m. to 10:00 a.m.**  
Place: Department of Corrections and Rehabilitation  
Conference Room 100N  
1515 S Street – North Building  
Sacramento, CA 95811  
Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period begins **September 7, 2018** and closes on **October 29, 2018 at 5:00 p.m.** Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to [rpm@cdcr.ca.gov](mailto:rpm@cdcr.ca.gov), before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

#### **CONTACT PERSONS:**

##### Primary Contact

R. Ruiz  
Telephone: (916) 445-2244  
Regulation and Policy  
Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001

##### Back-Up

Y. Sun  
Telephone: (916) 445-2269  
Regulation and Policy  
Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001

##### Program Contact

T. Tyler  
Telephone: (916) 323-1029  
Division of Adult Institutions

#### **AUTHORITY AND REFERENCE:**

**Government Code Section 12838.5** provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

**Penal Code (PC) Section 5000** provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

**PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

**PC Section 5054** provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

**PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR.

**PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

**PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of a regulation on an emergency basis.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

Senate Bill (SB) 310 (Chapter 856, Statutes of 2017), which was signed into law in October 2017, amends the Code of Civil Procedure 1279.5 regarding name and gender changes for inmates in State prisons or county jails. SB 310 provides that persons under the jurisdiction of the Department no longer need to obtain approval from the Department before submitting a petition to the court for legal name changes.

The amended statute goes into effect on September 1, 2018, and the proposed regulations establish procedures for Department staff and persons under the jurisdiction of the Department to meet the requirements of the amended statute.

This action provides the following:

- Adds a reference to parolees in the title of CCR Section 3294.5 for clarity to specify that the regulations apply to both inmates and parolees.
- Establishes procedures and appropriate timelines for offender-petitioners in order to comply with the requirements of the amended statute.
- Establishes procedures and appropriate timelines for staff to follow in conducting reviews of offender petitions for name changes, as required by the amended statute.

**DOCUMENTS INCORPORATED BY REFERENCE:**

CDCR Form 2010 (06/18), Notice of Legal Name Change Petition.

**SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:**

These regulations, once adopted, will bring CDCR into compliance with the amended statute. These regulations promote fairness and social equality as they provide for inmates and parolees to petition the courts directly when seeking name changes. The Department’s comprehensive review of petitions for name changes and relevant criminal histories for the petitioners will enable CDCR to file an objection with the court, ensuring that the court considers possible risks to the institutions and the community.

**EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS:**

The Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. Pursuant to this evaluation, the Department has determined that this action is not inconsistent or incompatible with existing State laws and regulations.

**LOCAL MANDATES:**

The proposed regulatory action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code sections 17500 through 17630.

**FISCAL IMPACT STATEMENT:**

- Cost to any local agency or school district that is required to be reimbursed: *None*
- Cost or savings to any State agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the State: *None*

**EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed regulations will have no significant effect on housing costs.

### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESS:**

The Department 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.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

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

### **EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations have no significant adverse economic impact on small business as the proposed regulations establish name change procedures for persons who are under the jurisdiction of the Department; the inmate and parolee populations, as they relate to the procedures described, do not have a significant impact on small businesses.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT:**

The Department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California as the proposed regulations only affect California inmates and parolees seeking name changes. Existing Department staff will perform the actions described in the proposed regulations through their current duties.

The Department has determined that the proposed regulations may have a positive impact upon the welfare of California residents as the proposed regulations establish procedures for inmates and parolees to petition the courts directly when seeking a name change as provided for by amended law, which helps to promote fairness and social equality. The Department has determined that the proposed regulations will not have a direct effect on worker safety or the state's environment as the regulations are specific to the name change procedures for inmates and parolees and these specific populations in completing these specific actions do not significantly affect worker safety or the state's environment.

### **CONSIDERATION OF ALTERNATIVES:**

The Department has determined that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### **AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based, is available to the public upon submittal of a request to the Department's primary contact person. The proposed text, ISOR, and Notice of Proposed Action are also available on the Department's website: <http://www.cdcr.ca.gov>.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person or website.

### **AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the proposed regulations, it will make the modified regulations (with the changes clearly indicated) available to the public for at least 15 days prior to submitting the amended regulations to OAL for adoption. Requests for copies of any modified regulation should be directed to the primary contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.



## TEXT OF PROPOSED REGULATIONS

In the following, underline indicates new or additional text and ~~strikethrough~~ indicates deleted text.

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 requests 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 initially be reviewed by the Warden or Regional Parole Administrator (RPA) at the time the petition is submitted to the court who shall either recommend approval for a legal name change or deny the request for a legal name change.

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.  
~~If the request is denied, the Warden or Regional Parole Administrator shall respond to the inmate or parolee in writing with the reasons for denial. A copy of the denial shall be placed in the miscellaneous section of the inmate/parolee's central file.~~

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.

~~If the Warden finds reasons that exist to warrant an inmate's request for a name change, then the Warden shall forward the request to the Institutions Division Regional Administrator, along with a memorandum listing the reasons for recommending approval. A copy of the memorandum shall be placed in the miscellaneous section of the inmate's central file.~~

**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.

~~If the regional parole administrator finds reasons that exist to warrant a parolee's request for a name change, then the regional parole administrator shall forward the request to the deputy director, Division of Adult Parole Operations (DAPO), along with a memorandum listing the reasons for recommending approval. A copy of the memorandum shall be placed in the miscellaneous section of the parolee's central file.~~

**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.

~~If the Division of Adult Institutions regional administrator or the deputy director, DAPO, agrees with the recommendation to approve the request for a name change of an inmate or parolee, a letter shall be forwarded to the court explaining why the Department is recommending approval for a name change, along with the inmate/parolee's request. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file.~~

**Subsection 3294.5 (f) is amended to read:**

(f) If a court order denying a petition is received from the court, the Division of Adult Institutions regional administrator or the deputy director, DAPO, denies the request for a name change of an inmate or parolee, a letter shall be forwarded to the inmate or parolee with the reasons for denial. A copy of the court order letter 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) Upon~~ Within five business days of receiving final approval from the court a certified court order granting a ~~with the ordered name change and receiving departmental approval,~~ 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, facility mailroom, receiving and release, and visiting room, and the Office of Victim and Survivor Rights Services ~~of the name change~~ 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 ~~central~~ ERMS file, along with any other documents related to the request for a name change.

**Subsections 3294.5 (h) through (j) are deleted:**

~~(h) The mailroom and visiting room staff of the facility shall update their records to reflect the additional name of the inmate.~~

~~(i) The original commitment name of the inmate or parolee shall remain on all departmental records and shall continue to be used on all departmental records.~~

~~(j) The new legal name change shall be entered into the Offender Based Information System (OBIS) under the section "Also Committed As."~~

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

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

**Subsection 3294.5(l) is deleted:**

~~(l) If the court ordered name change is received without departmental approval, this clearly indicates that the inmate/parolee has not followed proper procedure to legally change his/her name. In this case, the warden or regional parole administrator shall notify the issuing court in writing that the name change cannot legally be changed without the Secretary's approval pursuant to the Code of Civil Procedure, Section 1279.5. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file and a copy shall be provided to the inmate/parolee.~~

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



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STATE OF CALIFORNIA  
**NOTICE OF LEGAL NAME CHANGE PETITION**  
CDCR 2010 (06/18)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**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)



## **INITIAL STATEMENT OF REASONS**

The California Department of Corrections and Rehabilitation (CDCR or the Department) proposes to revise Section 3294.5 of the California Code of Regulations (CCR), Title 15, Division 3. This revision will bring CDCR into compliance with Senate Bill 310 (Chapter 856, Statutes of 2017), which amended Section 1279.5 of the Code of Civil Procedure (CCP) regarding inmates' and parolees' petitions for name changes. Senate Bill 310 was signed into law on October 15, 2017, and becomes operative on September 1, 2018.

In 1994, legislation was enacted which added a provision prohibiting inmates from seeking a name change without the Department's permission. This legislation was signed into law based on an inmate who harassed and tormented his victim and her family over a ten-year period. This was made possible because the inmate was able to legally change his name to the same name as the father of his victim. Additionally, the inmate fraudulently obtained the victim's personal information such as tax returns, credit reports, and school yearbook photographs, and continually harassed the family via letters and phone calls. Because the inmate changed his name legally, it took the family years to finally get the court to expunge the name change. As a result of this incident, the law was amended to require CDCR to review and approve an offender's name change prior to him/her petitioning the court. If the inmate or parolee failed to obtain approval from CDCR, the court would deny the petition.

Senate Bill 310 establishes the right of an inmate or parolee under the jurisdiction of the Department to petition directly to the court to obtain a legal name change and requires the offender to provide a copy of the submitted petition to the Department. If the court approves the name change request, the amended law requires CDCR to use the new name of a person who obtained a name change, and to list the prior name as an alias.

The following proposed revisions comply with the amended law while affording CDCR the ability to conduct a review of the petition for name change and the petitioner's criminal history without impeding the inmate or parolee's access to the courts. Offenders who wish to change their name do so for a variety of reasons, such as conforming to their gender identity or religious beliefs, or for other personal reasons. However, some offenders may attempt to change their name for fraudulent purposes, to evade law enforcement, or simply for shock value; e.g., vulgar names, racially insensitive names, etc. Requiring the inmate or parolee to provide a copy of the petition to the Department allows CDCR the opportunity to conduct a review and file an objection with the court, thereby ensuring the court considers possible risk to the institution or the community.

In accordance with the law, the amended regulations establish a review process with specific time frames, to ensure that any objections to the name change the Department identifies are received by the court within the legal timeframes. The amended regulations also establish recordkeeping and notification responsibilities to accurately account for any actions regarding the petition for an offender's name change, and provide that the Department update its records if a new name is ordered by the court.

It is necessary to establish timeframes for inmates and staff to complete successive tasks in order for the Department to timely file an objection in the appropriate cases. A name change petition can take up to three months (all petitions except those to conform a person's name to the person's gender identity) and no less than six weeks (petitions to confirm a person's name to the person's gender identity) from the time it has been filed with the court to be approved and CDCR has no authority to impede the inmate or parolee's access to the court. Therefore, the timeframes must be sufficient enough for CDCR to file any

objections with the court within the legal timeframes, as required by Statute. The Department finds two work weeks is a reasonable timeframe to review the inmate or parolee's central file and to provide a recommendation for review and approval by the Warden or RPA.

### **CONSIDERATION OF ALTERNATIVES**

The Department must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Currently, no reasonable alternatives have been brought to the attention of the Department that would alter the Department's initial determination.

### **ECONOMIC IMPACT ASSESSMENT:**

In accordance with Government Code Section 11346.3(b), the CDCR has made the following assessments regarding the proposed regulations:

#### **CREATION OF NEW OR ELIMINATION OF EXISTING JOBS WITHIN THE STATE OF CALIFORNIA**

The Department has determined the proposed regulation will not have an impact on the creation of new jobs or elimination of existing jobs within California, as the proposed regulation only affects California inmates and parolees.

#### **CREATION OF NEW OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA**

The Department has determined the proposed regulation will not have an impact on the creation of new businesses or elimination of existing businesses within California, as the proposed regulation only affects California inmates and parolees.

#### **EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA**

The Department has determined the proposed regulation will not have an impact on the expansion of businesses currently doing business in California as the proposed regulation only affects California inmates and parolees.

#### **SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

The Department has made an initial determination that this action will not have a significant adverse economic impact on business because the proposed regulations make changes to procedures for name change of inmates and parolees as required by Statute and place no obligations or requirements on any business.

## **LOCAL MANDATES**

The Department has determined that 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.

## **BENEFITS OF THE REGULATION**

The Department anticipates this regulation will bring CDCR into compliance with the amended law. This regulation promotes fairness and social equality as the regulations provide for inmates and parolees to petition the courts directly when seeking a name change. The Department's comprehensive review of the petition for name change and relevant criminal history for the offender/petitioner will enable CDCR to file an objection with the court, ensuring the court considers possible risk to the institution and the community.

## **DOCUMENTS RELIED UPON**

The Department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

## **Specific Purpose and Rationale for Each Section, per Government Code 11346.2(b)(1)**

### **Chapter 1. Rules and Regulations of Adult Operations and Programs**

#### **3294.5 Inmate Name Change**

**The title of Section 3294.5 is amended** to specify that parolees are included in the regulations for name change. This change is necessary to provide clear understanding that these regulations apply to all persons who are under the jurisdiction of the Department.

**Subsection 3294.5(a) is amended** to remove language not compliant with law and to establish the CDCR Form 2010, Notice of Legal Name Change Petition (06/18). The CDCR Form 2010 is created to provide the offender the ability to notify the Department of their intent to change their name as required by CCP, Section 1279.5(c). The CDCR Form 2010 is necessary to provide the offender a straightforward method to notify the CDCR of their intent to change their name, and is also necessary to ensure their understanding of what information and documents to provide. The CDCR Form 2010 is incorporated by reference and a copy included in the public notice

The CDCR Form 2010 requires the offender to provide their existing name, CDC number, and housing location so the Department can appropriately identify the petitioner. The CDCR Form 2010 provides a singular document to record details of the petition for name change, including the date the petition for name change was submitted to the court, the date notice of the petition was received by the Department and submitted to the Warden or RPA, the date the petition was assigned to a reviewer, the date the review is due to the Warden or RPA, and all recommendations made by the reviewer and the Warden or RPA.

It is necessary to collect details of the petition to keep accurate records of the request for name change. The CDCR Form 2010 will also be placed into the offender's central file and will become a permanent part of the offender's record for future reference. It is necessary to record the dates the petition was

submitted to the Warden or RPA and the dates the petition was assigned for review to ensure the Department complies with the timelines established by statute.

This section adds language requiring the inmate or parolee to provide copies to CDCR of all documents submitted to the court, as required by CCP, Section 1279.5(c) along with the CDCR Form 2010 when submitting notice of the filed petition. This is necessary as CDCR needs enough time to research records and file an objection with the court if warranted within the required time established by the court. An inmate will be using the institutional mail system to access the United States Postal Service to file the petition with the court, so it is reasonable to expect the inmate to use the institutional mail, at that same time, to give CDCR a copy. A parolee could either use the mail for both the court filing and notice to CDCR, or he/she could do both in person.

**Subsection 3294.5(b) is amended** to remove language that is no longer compliant with the law and to establish the requirement that 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 days of receipt from the court. An OSC for a change of name to conform name to gender identity allows an objection to be filed within 6 weeks, and if no objection is filed, the court grants the petition without holding a hearing (Code of Civil Procedure section 1277.5.) An OSC for any other type of name change specifies the date, time, and location of the court hearing on the petition. (Code of Civil Procedure section 1277.) The OSC also identifies the actual name the inmate or parolee is petitioning the court to change. While the inmate or parolee is required to provide a copy of the petition to CDCR, the name change petition in itself does not provide the Department with deadlines and details for objecting in appropriate cases. The Department needs to be promptly advised of the time within which to file an objection or the hearing date to file an objection if warranted within the required time. The revised Code of Civil Procedure Section 1279.5 does not require the court to provide CDCR with any documents or information. Therefore, the Department is adding language to the regulations that requires the inmate or parolee provide the Order to Show Cause (OSC). CDCR has determined three calendar days is sufficient time for the inmate or parolee to provide a copy of the OSC through the institutional mail or in the case of a parolee, through the United States mail to the appropriate Regional Parole Office that a deadline has been set for filing an objection or that a hearing date has been scheduled.

**Subsection 3294.5(c) is amended** to remove language that is no longer supported by law, and to establish a procedure to follow upon receipt by the Warden or RPA of the CDCR Form 2010, Notice of Legal Name Change Petition. The level of staff required to conduct the review is specified for clarity, and the timeframe of ten business days is established for the assigned staff to complete their review and draft their memorandum including their recommendations. The Department determined that ten business days is sufficient time to complete this part of the process. This language is necessary as a directive to staff and to ensure that this process is followed in a timely manner.

**Subsections 3294.5(c)(1) through (c)(5) are adopted** to establish criteria to be reviewed by CDCR staff to determine if there are any legitimate reasons for objecting to the court:

**(c)(1) is adopted** to reference the Commitment Offense as important to review as the individual could have a conviction such as fraud, stalking, identity theft or another type of offense which indicates the name change could be for a fraudulent purpose. While these convictions taken alone do not mean the inmate or parolee is changing their name for a nefarious reason, it is something to be reviewed and considered.

**(c)(2) is adopted** to require CDCR staff to determine if the inmate or parolee is required to register pursuant to Penal Code section 290. This is necessary because CCP section 1279.5(e) requires a court to deny a petition for a name change when the person is required to register as a sex offender under Section 290 of the Penal Code, unless the court determines that it is in the best interest of justice to grant the petition and that doing so will not adversely affect the public safety.

**(c)(3) is adopted** to require identification of the victim(s) name(s) to ensure the inmate or parolee is not changing his or her name in order to continue to harass or further victimize victim(s). This is necessary because as stated in the introduction of the Initial Statement of Reasons, there is documented history of an inmate changing his name to the same name as the father of his victim, which allowed him to further subject his victim to harassment.

**(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 his or her name to something racially insensitive or vulgar it could result in increased tension amongst the inmate population. Additionally, Departmental staff and other inmates would be required to utilize the offensive name during all interactions with the inmate. The Department will expect reviewing staff to provide specific detail and explanation why a specific name should be objected for being deemed too offensive.

**(c)(5) is adopted** for staff to determine whether there is any information indicating the request is intended for a fraudulent purpose. This is necessary to identify any documented behaviors which indicate the individual is attempting to change their name to commit fraud or to evade law enforcement.

**Subsection 3294.5(d) is adopted** to remove language that is not supported by law, and to establish a procedure for the Warden or RPA to receive the completed assignment defined in sections (c) through (c)(5) above and conduct a review to identify if he or she agrees or disagrees with the recommendation provided. Upon making a recommendation, the Warden or RPA shall ensure a copy of the review and the CDCR Form 2010 is placed in the inmate or parolee's central file. This is necessary to ensure accurate documentation is maintained for the inmate or parolee and a recorded decision by the Warden or RPA is recorded regarding the offenders petition for a legal name change.

**Subsection 3294.5(e) is adopted to remove language that is not supported by law and to establish a timeframe** of one business day for the Warden or RPA to send documents to the Office of Legal Affairs (OLA) if an objection to the name change petition is identified. It was determined by the Department that one business days is sufficient time to complete this part of the process.

New language provides a process for the Warden or RPA to seek legal advice regarding their recommendation to object to the offenders name change petition. CDCR's review is operating concurrently with the court process; therefore, five business days is a reasonable timeframe for OLA to complete a legal review of the rationale given by the Warden or RPA for their objection. If the objection is deemed appropriate, OLA shall seek assistance from the Office of the Attorney General to file an objection with the court. The Attorney General is CDCR's litigation counsel and would represent CDCR's interest in filing an objection to the court.

**Subsection 3294.5(f) establishes** that if the court denies the petition for name change and a copy of the denial is received by CDCR, a copy of the document shall be placed in the parolee or inmate's central file. This is necessary to maintain accurate inmate and parolee records.

**Subsection 3294.5(g) establishes** a timeframe and obligates CDCR to amend its records, after the court sends the order to CDCR and upon receipt. The prior version of this regulation stated only that after the court sent the order and CDCR received it, that CDCR must notice certain persons. CDCR will ensure the new name is reflected within the Strategic Offender Management System (SOMS) within five business days of receiving the court order for a name change from the court. The CCRM will initiate the change and will ensure notice to the inmate's correctional counselor, the inmate assignment office, mailroom, receiving and release, and visiting room of the name change. Additionally, the inmate will be provided an updated inmate identification card reflecting the new name and will be charged for the cost of replacement unless the inmate is indigent. If the offender is on parole, the CCRM will contact the assigned parole agent to advise of the approved name change.

This ensures if the petition is approved by the court, CDCR has sufficient time to update its internal systems to reflect the offender's new legal name. The Department routinely receives correspondence from courts and finds that five business days is a reasonable time frame in which to ensure its internal systems are updated with the new legal name.

**Subsection 3294.5(h) is deleted** as the language is incorporated into amended subsection 3294.5(g).

**Subsection 3294.5(i) is deleted** as it is no longer supported by law.

**Subsection 3294.5(j) is deleted** as it is no longer supported by law.

**Subsection 3294.5(k) is renumbered subsection (h) and** is unchanged.

**Subsection 3294.5(l) is deleted** as the statutes governing inmate and parolee name changes have been amended and the language is no longer necessary.