

March 10, 2022

Notice of Change/Withdrawal

**DEPARTMENT OF CORRECTIONS**

RULE NO.: RULE TITLE:

33-602.205 Inmate Telephone Use

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 238, December 10, 2021, issue of the Florida Administrative Register.

The following changes were precipitated by comments received from JAPC and the public following publication of the Notice of Proposed Rule and public comments received during the public hearing held February 17, 2022.

**33-602.205 Inmate Telephone Use.**

(1) No Change.

(2) Inmate telephone procedures will be conducted as follows:

(a) Inmates shall be allowed to telephone any authorized person and those outlined in paragraph (3)(a), subsection (4), and subsection (5) of this rule. For purposes of this rule, an authorized person is any person the inmate is not prohibited from calling pursuant to statute, court order, or paragraph (14)(a) of this rule. Inmates shall not make three-way telephone calls, conference calls, or calls to numbers which are then transferred or merged to other telephone numbers. Collect calls to personal cell phone numbers will be allowed as follows:

1. No Change.

~~2. No calls to pre-paid or pay as you go cell phones will be allowed;~~

~~3. No calls to business cell phone numbers will be allowed;~~

~~4.~~ 24. The inmate will be responsible for advising family/friends that they must contact the contractor for the inmate telephone system to establish a payment account for calls made to any phone number;

~~5. Billing information for the cell phone owner must be a physical address. The Department reserves the right to require that a copy of the cell phone contract be provided to the inmate telephone system contractor to verify ownership, physical address for billing information, and subparagraphs 1. 3. above.~~

(b) through (g) No Change.

(h) Except for calls to attorneys as provided in paragraph (3)(a), calls to foreign consulates as provided in paragraph ~~(5)(a)~~ ~~(4)(a)~~, or calls during family crisis as provided in subsection ~~(6)~~ ~~(5)~~, calls shall be limited to 30 minutes. Calls to attorneys as provided in paragraph (3)(a), calls to foreign consulates provided in paragraph ~~(5)(a)~~ ~~(4)(a)~~, and calls in time of family crisis as provided in subsection ~~(6)~~ ~~(5)~~ shall be limited to the amount of time reasonably necessary to accomplish the purpose of the call.

(i) through (p) No Change.

(3) Calls to attorneys.

(a) Inmates shall be allowed to make private telephone calls to attorneys ~~by whom they are represented or from whom they are seeking legal representation~~ upon presentation to the warden or his designee of evidence that the call is necessary. Such evidence shall be a letter from the attorney (~~transmission by FAX or via e mail with scanned letter is acceptable~~) requesting the return call or a court order containing a deadline the inmate cannot meet if he must communicate by letter with the attorney. The letter shall be on attorney letterhead, signed by the attorney requesting the telephone call, and include the bar association number of the attorney. Alternatively Additionally, an attorney shall be permitted to request make prior arrangements be made by letter, email with attached letter, or FAX (~~conforming to the requirements listed above~~) with the warden or warden's designee to have an inmate ~~with whom the attorney has established an attorney-client relationship~~ receive a private telephone call from the attorney on an unmonitored telephone by submitting a signed copy of form DC6-20001 and a copy of the attorney's bar admission card along with the request letter, email with attached required documents, or FAX. Form DC6-20001 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>. The effective date of this form is XX/XX. Unmonitored calls shall be limited to those which are necessary and cannot reasonably be accomplished through other available means of communication. Attorneys shall not be

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~~permitted to make prior arrangements for prospective inmate clients to receive a private telephone call from the attorney on an unmonitored telephone.~~ Except as authorized by warrant or order of court, telephone calls to attorneys made pursuant to this section shall not be monitored or electronically recorded. These calls will be placed on telephones designated for this purpose and shall be collect calls; there shall be at least one telephone at each institution that is not connected to the monitoring system for these calls.

(b) If an inmate places a call to their attorney's telephone number outside of the parameters above, it will be collect, subject to monitoring and recording, and limited to 30 minutes, in accordance with subsection (2) of this rule. If the inmate and the attorney want to have non-monitored conversations, the procedures in paragraph (3)(a) must be followed.

(4) through (7) No Change.

(8) Inmates may not receive incoming telephone calls because it is disruptive to normal operating and program functions of an institution. Inmates may receive incoming voicemails which are recorded and subject to the same monitoring ~~monitoring~~ as telephone calls. These messages will be stored, reviewed, and retained for a minimum of one year to allow called ~~for~~ inmates to access the messages.

(9) through (13) No Change.

(14) Misuse of telephone privileges.

(a) No Change.

(b) Inmates shall be subject to having telephone privileges restricted or revoked for abuse of telephone communication services. Examples of abuse include:

1. through 4. No Change.

5. Making three-way or conference calls. This includes calls that are placed and then transferred to another telephone number and calls that are merged. The telephone system automatically detects any such call ~~and blocks the number from the inmate's telephone list.~~ For purposes of this rule, a three-way call includes any call where a third telephone line or other device party has been added or merged to the conversation without the assistance of a telephone operator. This rule does not prohibit a called party from allowing other persons present in the same room to speak with the inmate on the called telephone line.

a. The warden or assistant warden shall have the authority to reinstate ~~a~~ the blocked number after the warden or assistant warden has determined that there was no illicit intent and after advising the party that further occurrences will not be tolerated.

b. The warden or assistant warden shall notify the contractor's on-site staff of the reinstatement of any blocked telephone number on an inmate's telephone list.

c. Any subsequent violations of the three-way or conference call or merged call prohibition will result in a permanent block being placed on the telephone number involved.

6. through 9. No Change.

10. Sharing calls or placing calls for another inmate and allowing him or her to converse with the called ~~a~~ party ~~not on that inmate's approved list.~~

(c) Inmates found to have abused telephone privileges shall be subject to disciplinary action in accordance with Rules 33-601.301-.314, F.A.C. In addition, wardens are authorized to suspend an inmate's telephone privileges, other than calls to attorneys as outlined in paragraph (3)(a), calls to courts as outlined in subsection (4), and calls to foreign consulates as outlined in paragraph (5)(a), during an investigation for abuse of telephone privileges.

(d) No Change.

(15) through (19) No Change.

*Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 11-19-81, Formerly 33-3.125, Amended 11-21-86, 1-6-92, 3-24-97, 7-22-97, 12-21-98, Formerly 33-3.0125, Amended 2-7-00, 6-18-02, 2-4-03, 12-30-03, 11-25-04, 1-7-07, 9-24-07, 3-23-08, 6-14-12, 8-11-16,\_\_\_\_\_.*