

Notice of Development of Rulemaking

DEPARTMENT OF CORRECTIONS

RULE NOS.:RULE TITLES:

33-503.001 Chaplaincy Services

33-503.002 Marriage of an Inmate While Incarcerated

PURPOSE AND EFFECT: The purpose and effect is to amend Rule 33-503.001, F.A.C. to remove outdated language and make clarifications to the Rule in regards to inmates attending activities of religions other than their own and to amend Rule 33-503.002, F.A.C. to update and clarify the approval process for the marriage of inmates while incarcerated

SUBJECT AREA TO BE ADDRESSED: Chaplaincy Services, Marriage of inmates while incarcerated.

RULEMAKING AUTHORITY: 20.315, 944.09, 944.11 FS.

LAW IMPLEMENTED: 90.505, 944.09, 944.11, 944.803 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kyle Magee, 501 South Calhoun Street, Tallahassee, Florida 32399.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-503.001 Chaplaincy Services.

(1) Organization and Functions.

(a) The Chaplaincy Services Section ~~of the Office of Education and Initiatives~~ is responsible for:

1. through 4. No change.

(b) through (c) No change.

(2) No change.

(3) Religious Services and Rituals.

(a) through (b) No change.

(c) In the interest of security, order, or effective management of the institution, the warden may limit the number of religious services or activities inmates may attend per week. When it is considered necessary for security or good order of the institution, the warden may limit attendance at or discontinue completely a religious service or activity. The warden may not restrict or allow the religious group itself to restrict attendance at or participation in a religious service or activity on the basis of race, color, or nationality. Inmates are allowed to visit religious services other than their own so long as ~~the services are not scheduled by call-out~~, the inmate visits the religious service during his own free time, and the inmate does not provoke disruption of the service. The volunteer clergy or religious leader is authorized to limit participation in specific sacraments to members of the faith according to the faith tradition. Inmates attending a religious service or activity may be required to sign an attendance record.

(d) through (h) No change.

(4) through (14) No change.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 90.505, 944.09, 944.11, 944.803 FS. History—New 1-6-82, Formerly 33-3.14, 33-3.014, Amended 10-18-01, 1-9-03, 2-25-08, 9-22-08, 1-25-10, 3-2-11, 10-26-11,_____.

33-503.002 Marriage of an Inmate While Incarcerated.

(1) No change.

(2) Procedure for Consideration of Request.

(a) The staff psychologist and the correctional officer chief at the inmate's institution shall communicate individually, in writing, to the warden as to whether they believe the marriage would pose a threat to any of the following: the inmate's security, the security and order of the institution, or the public safety. If a psychological and security evaluation indicates that the marriage of the inmate will not pose a threat to the inmate's security or the

~~security and order of the institution nor to public safety, a written recommendation from the staff psychologist and the correctional officer chief shall be submitted to the warden.~~

~~(b) After receiving both of the above communications, the~~ The warden shall, within 30 days, make his or her own determination as to whether the inmate's marriage would pose a threat to the inmate's security, the security and order of the institution, or the public safety. If the warden determines that the marriage would not pose a threat to any of the above-listed items, he or she shall approve the request. The warden's marriage request approval is final. ~~forward the recommendation along with the items listed in subsection 33-503.002(2), F.A.C. to the chaplaincy services administrator.~~

~~(c) The chaplaincy services administrator shall review the request for compliance with this rule and forward it with his findings to the secretary or his designee.~~

~~(c)(d) If the warden approves the marriage request he/she~~ The secretary or his designee shall make the final decision as to whether the marriage presents a threat to the security or order of the institution or to public safety. The warden or his/her his designated representative shall advise the parties in writing of the decision ~~and the basis for the decision.~~

(d) If the warden determines that the marriage would pose a threat to one of the above-listed items, he or she shall recommend, in writing, to the Regional Director that the request be denied. Such written recommendation shall be accompanied by the documents referenced in paragraph (2)(a). The Regional Director shall only accept the warden's recommendation if he or she determines that the marriage would pose a threat to the inmate's security, the security and order of the institution, or the public safety. The Regional Director's decision shall be made within 15 days of receiving the above-mentioned documentation from the warden and shall be final.

(3) Procedure for Marriage. If an inmate is permitted to marry while incarcerated, the following shall be followed:

(a) The inmate and the proposed spouse shall be responsible for making all arrangements in keeping with the statutes governing marriage in the State of Florida.

(b) No change.

(c) If the inmate will not be furloughed, the department is responsible for the following:

1. No change.

2. Arranging for suitable place for the marriage ceremony to be conducted at the institution, and a person ~~an~~ authorized by law ~~person~~ to conduct it.

3. No change.

(4) In order to minimize the impact of the ceremony on security, marriage ceremonies shall be of a limited nature. The extent of the individual ceremony shall be limited by the warden such that they would not negatively affect the ~~consistent with the maintenance of proper~~ security and welfare of the institution.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History--New 1-29-81, Amended 4-18-82, Formerly 33-3.13, Amended 5-21-89, 4-23-91, Formerly 33-3.013, Amended _____.