

July 6, 2022

Substantial rewording of Rule 33-601.731, F.A.C., follows. See Florida Administrative Code for present text.

33-601.731 Suspension of Visitation Privileges.

(1) Suspension of Inmate Visitation Privileges.

(a) Suspension of an inmate's visitation privileges pursuant to paragraphs (1)(b)-(e) below will be considered by the ICT as a management tool independent of any disciplinary action or close management placement resulting from a listed infraction or incident. The ICT must consider the following factors when contemplating a suspension of an inmate's visitation privileges:

1. The severity of the precipitating conduct/offense(s);
2. Whether allowing continued visitation privileges would present a threat to the safe and secure operation of the institution, or to the security and operational integrity of the visiting area;
3. Whether the inmate's placement or pending placement in a special status such as close management, administrative confinement, disciplinary confinement, or maximum management would, on its own, result in an appropriate visitation restriction;
4. Whether the suspension of visitation privileges would be a significant detriment to the inmate's successful reentry into society by hindering maintenance of community and family ties.

(b) Suspension of an inmate's visitation privileges will be considered by the ICT as a management tool when an inmate is found guilty of one or more of the following enumerated offenses set forth in Rule 33-601.314, F.A.C.:

1. Sexual battery or attempted sexual battery;
2. Lewd or lascivious exhibition by intentionally masturbating, intentionally exposing genitals in a lewd or lascivious manner, or intentionally committing any other sexual act in the presence of a staff member, contracted staff member, or visitor;
3. Aggravated battery or attempted aggravated battery on a correctional officer;
4. Aggravated battery or attempted aggravated battery on staff other than correctional officer;
5. Aggravated assault or attempted aggravated assault on a correctional officer;
6. Aggravated assault or attempted aggravated assault on staff other than correctional officer;
7. Possession of or manufacture of weapons, ammunition, or explosives;
8. Possession of escape paraphernalia;
9. Possession of narcotics, unauthorized drugs, and drug paraphernalia;

10. Trafficking in drugs or unauthorized beverages;

11. Manufacture of drugs or unauthorized beverages;

12. Possession of unauthorized beverages;

13. Possession of aromatic stimulants or depressants, such as paint thinner, glue, toluene, etc.;

14. Possession of negotiables – unauthorized amounts of cash where cash is permitted, cash where cash is not permitted, other inmate’s canteen coupons, other inmate’s cashless canteen or identification cards or gift certificates, checks, credit cards, or any other negotiable item which is not authorized;

15. Unauthorized possession or use of a cellular telephone or any other type of wireless communication device or any components or peripherals to such devices, including but not limited to SIM cards, Bluetooth items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a portable communication device prohibited under statute;

16. Possession of gang-related paraphernalia or related material, gang symbols, logos, gang colors, drawings, hand signs, or gang-related documents;

17. Non-death row and/or non-community release program inmates – possession, introduction, or trafficking of tobacco or tobacco-related products such as lighters or cigarette papers;

18. Death row inmates – possession of tobacco, other than authorized smokeless tobacco, or possession of tobacco-related products intended for use with smoking tobacco such as lighters or cigarette papers; introduction of tobacco or tobacco-related products to non-death row housing, or trafficking in such products;

19. Escape or escape attempt;

20. Sex acts or unauthorized physical contact involving inmates;

21. Unauthorized physical contact involving non-inmates;

22. Refusing to submit to substance abuse testing;

23. Use of unauthorized drugs, as evidenced by positive results from urinalysis test or observable behavior;

24. Gang-related activities, including recruitment; organizing; display of symbols, groups, or group photos; promotion or participation.

(c) Suspension of an inmate’s visitation privileges will be considered by the ICT as a management tool when an inmate is found guilty of any infraction listed in Rule 33-601.314, F.A.C., that occurs during visitation, is reasonably connected to the visitation process, or is connected to a documented STG-related incident.

(d) Suspension of an inmate's visitation privileges will be considered by the ICT as a management tool when an inmate is placed in close management for one or more of the following:

1. An incident causing death;
2. A pattern of predatory actions which makes an inmate a threat to others;
3. An act causing injury or an act which could have resulted in injury to another;
4. Any physical assault or battery on staff which caused injury;
5. The taking of a hostage or an attempt to take a hostage;
6. An escape or escape attempt from a secure perimeter;
7. An escape or escape attempt while under armed supervision while outside the perimeter of the institution;
8. The initiation or participation in a contraband trafficking operation involving negotiables, escape paraphernalia, or other items that present a threat to the safe and secure operation of the institution or facility;
9. Possession of unauthorized drugs, testing positive for drugs on a urinalysis test, possession of negotiables, escape paraphernalia, or other items that present a threat to the safe and secure operation of the institution or facility;
10. Documented leadership in a security threat group that is certified by the threat assessment review committee in central office.
11. Validated membership in a security threat group that has been certified by the threat assessment review committee in central office.

(e) Suspension of an inmate's visitation privileges will be considered by the ICT as a management tool when an inmate is placed in close management for any incident listed in Rule 33-601.800, F.A.C., that occurs during visitation or is reasonably connected to the visitation process.

(f) The ICT will temporarily suspend the visitation privileges of any inmate subject to a pending investigation for escape, attempted escape, or possession of escape paraphernalia until the investigation is complete. If the inmate is found guilty in a disciplinary proceeding or is placed in close management, the ICT will consider suspension of the inmate's visitation privileges pursuant to paragraphs (1)(b)-(e) of this rule. If the inmate is not found guilty or is not placed in close management, the ICT will immediately reinstate the inmate's visitation privileges.

(g) If an inmate is found guilty in a disciplinary proceeding or is placed in close management for one or more of the offenses or incidents listed in paragraphs (1)(b)-(e) of this rule, the ICT will consider suspending the inmate's visitation privileges for the length of time specified on Form NI1-102, Visitation Privileges Suspension Matrix.

<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>. Form NI1-102 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is XX/XX.

(h) If an inmate's visitation privileges are suspended pursuant to this rule and the inmate is subsequently found guilty in a disciplinary proceeding or is placed in close management for one or more of the offenses or incidents listed in paragraphs (1)(b)-(e) of this rule, the inmate will be subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of a guilty finding or placement in close management for the same offense, the inmate's visitation privileges will be suspended for the length of time specified on Form NI1-102 for subsequent offenses. This period of suspension will run concurrently with any period of suspension remaining as a result of the previous offense.

2. If the subsequent offense occurs within two years of a guilty finding or placement in close management for a different offense, the inmate's visitation privileges will be suspended for the length of time specified on Form NI1-102 for an initial violation. This period of suspension will run concurrently with any period of suspension remaining as a result of the previous offense.

(i) In lieu of suspending an inmate's visitation privileges when the inmate is found guilty of an offense listed in paragraph (1)(b) or (c) or is placed in close management for an incident listed in the paragraph (1)(d) or (e) of this rule, the ICT is authorized to consider placement of an inmate in non-contact visitation status as provided in Rule 33-601.735, F.A.C.

(j) When the suspension of an inmate's visitation privileges is authorized pursuant to paragraphs (1)(b)-(e) above, the ICT may recommend to the regional director, as a management tool, a visitation suspension outside the time frames set forth in Form NI1-102, up to and including an indefinite suspension. An enhanced suspension will only be considered for those inmates who have demonstrated through documented behavior that they are a chronic and recurring management problem that threatens the safety of others or threatens the safety, security, order, or effective management of the institution. The ICT will submit a detailed recommendation to the regional director outlining the justification for an enhanced suspension. The recommendation and the regional director's decision will be recorded in the Department's electronic inmate database, and the inmate will be notified accordingly by institutional staff.

(2) Suspension of Visitor Visitation privileges.

(a) A visitor's visitation privileges will be indefinitely suspended by the warden or designee when the visitor:

1. Is found to be in actual or constructive possession of unauthorized drugs or substances, including narcotics, depressants, stimulants, aromatic stimulants, hallucinogens, cannabis, any other type of intoxicant (excluding intoxicating beverages), or drug paraphernalia when on the property of an institution or when entering or exiting an institution, or is found passing, attempting to pass, accepting, or attempting to accept such items to or from an inmate.

2. Is found to be in actual or constructive possession of a firearm, ammunition, dangerous weapon, explosive, or explosive device, or is found passing or attempting to pass such items to an inmate.

3. Assists, facilitates, aids, or abets an inmate in escape or attempt to escape, or is found to be in actual or constructive possession of or passing or attempting to pass to an inmate any item or instrument that is capable of being used to aid in effecting or attempting an escape. Local law enforcement will be called in this instance.

4. Commits repeated visitation rule or procedure violations during one or more visits.

5. Visits or attempts to visit an inmate work area or walks or drives along the perimeter road or the grounds of an institution except in those areas designated specifically for inmate visitation or visitor parking.

6. Evidences intent to do harm to staff, inmates, or visitors.

7. Is found to be in actual or constructive possession of or is found passing or attempting to pass any of the following to an inmate: a cellular telephone or other portable communication device as defined in section 944.47(1)(a)6., F.S.; any components or peripherals to such devices, including SIM cards, Bluetooth items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a portable communication device prohibited under the statute.

(b) A visitor's visitation privileges will be suspended by the warden or designee when the visitor:

1. Passes or attempts to pass money or other form of currency to an inmate.

2. Is intoxicated or has consumed intoxicating beverages or is found in actual or constructive possession of intoxicating beverages on the grounds of an institution or is found passing or attempting to pass such items to an inmate.

3. Violates the visitor conduct standards set forth in Rule 33-601.727, F.A.C.

4. Is found to have had unauthorized communication with an inmate on a cellular telephone or other portable communication device as defined in section 944.47(1)(a)6., F.S.

5. Participates in any criminal activity.

6. Falsifies information to obtain visitation privileges, including falsification of guardianship documents, unless it is determined that the information was provided as a result of an unintentional error.

(c) If a visitor is determined to have committed an offense listed in paragraph (2)(b), the warden or designee will suspend the visitor's visitation privileges for the period of time specified on Form NI1-102, Visitation privileges Suspension Matrix. If a visitor's visitation privileges are suspended pursuant to this rule and the visitor subsequently commits one of the offenses listed in paragraph (2)(b), the visitor is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of the commission of the same offense, the visitor's visitation privileges will be suspended for the length of time specified on Form NI1-102 for subsequent offenses. This period of suspension will run concurrently with any period of suspension remaining as a result of the previous offense.

2. If the subsequent offense occurs within two years of the commission of a different offense, the visitor's visitation privileges will be suspended for the length of time specified on Form NI1-102 for an initial violation. This period of suspension will run concurrently with any period of suspension remaining as a result of the previous offense.

(d) The warden or designee may impose a length of suspension less than the maximum allowed by rule by considering the type of violation committed, the impact of the violation on the overall safety, security, or good order of the institution, and the number of prior visits without incident.

(e) Refusal of Consent to Be Searched Pursuant to Rule 33-601.726, F.A.C.

1. Pre-Entry Search First Refusal. A visitor who refuses to be searched prior to entry beyond the secured perimeter of an institution will have that visit denied. The visitor will also have their visitation privileges suspended for a period of up to 24 months from the date of the refusal. At the conclusion of the suspension period, the visitor will be eligible to apply for reinstatement in accordance with Rule 33-601.732, F.A.C.

2. Pre-Entry Search Second and Subsequent Refusal. A visitor who refuses to be searched prior to entry beyond the secured perimeter of an institution within one year of having their visitation privileges reinstated following a prior refusal will have that visit denied. The visitor will also have their visitation privileges indefinitely suspended from the date of the refusal. The visitor will be eligible to apply for reinstatement in accordance with the timeframes

set forth in Rule 33-601.732, F.A.C.

3. Post-Entry Search Refusal. A visitor who refuses to be searched after entering beyond the secured perimeter of an institution will have their visit immediately terminated. The visitor will also have their visitation privileges indefinitely suspended from the date of the refusal. The visitor will be eligible to apply for reinstatement in accordance with the timeframes set forth in Rule 33-601.732, F.A.C.

4. Vehicle Search Refusal. A visitor who refuses a search of their vehicle, or of a rental vehicle in their possession, while the vehicle is on institutional property will have the current visit denied. The visitor will also have their visitation privileges indefinitely suspended from the date of the refusal. The visitor will be eligible to apply for reinstatement in accordance with the timeframes set forth in Rule 33-601.732, F.A.C.

(f) Active Warrant/Open Criminal Charges/Arrests Since Becoming an Approved Visitor Discovered Upon Entry. If a visitor's background check conducted upon entry into an institution reveals an active warrant, an open criminal charge, or an arrest since becoming an approved visitor, the current visit will be denied, and the visitor's visitation privileges will be temporarily suspended pending the outcome of any unresolved issues revealed by the background check. If the Department requires additional documentation regarding any arrests, open charges, convictions, injunctions, or warrants discovered in the background check, the visitor shall be responsible for providing official documentation showing the circumstances and disposition of any element of the background check that is in question.

(3) A suspended visitor will be notified in writing at their last known address via the U.S. Postal Service by the warden of the suspending institution utilizing Form XXXXX, Notice of Suspension of Visitation privileges, <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>. Form XXXXX is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is XX/XX.

(4) The regional director will serve as the reviewing authority for all suspensions in which the warden or designee indefinitely suspends a visitor's visitation privileges. The regional director will review the circumstances and evidence relevant to the suspension and decide whether to uphold, modify, or overturn the suspension. The regional director's decision will be recorded in the Department's electronic inmate database. The regional director will notify the warden of the suspending institution and the visitor in writing of their decision. A request for review by the regional director must be:

(a) made in writing by the visitor;

(b) postmarked no later than 30 days from the date of the postmark on Form XXXXX; and

(c) sent via the U.S. Postal Service to the regional director's office in the region where the suspending institution is located.

(5) The Assistant Deputy Secretary of Institutions will serve as the final reviewing authority for decisions made by a regional director to uphold a warden or designee's indefinite suspension of a visitor's visitation privileges. The Assistant Deputy Secretary of Institutions will review the circumstances and evidence relevant to the suspension and decide whether to uphold, modify, or overturn the regional director's decision. The Assistant Deputy Secretary of Institutions' decision will be recorded in the Department's electronic inmate database. The Assistant Deputy Secretary of Institutions' office will notify the regional director and the visitor in writing of their decision. A request for review by the Assistant Deputy Secretary of Institutions must be:

(a) made in writing by the visitor;

(b) postmarked no later than 30 days from the date of the postmark on the regional director's correspondence notifying the visitor of their decision; and

(c) sent via the U.S. Postal Service to the Florida Department of Corrections, Attn: Assistant Deputy Secretary of Institutions, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

(6) The Inspector General's Office is authorized to temporarily suspend the visitation privileges of an approved visitor who is involved in or is the subject of an ongoing investigation pending the outcome of the investigation.

(7) The suspension of a visitor's visitation privileges at any institution will automatically result in a suspension of the visitor's visitation privileges at all institutions for the duration of the suspension.

Rulemaking Authority 944.09, 944.115 FS. Law Implemented 944.09, 944.115, 944.23, 944.47, 944.8031 FS.

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