

Dear Senators DARRINGTON, Vick, Bock, and
Representatives WILLS, Luker, Burgoyne:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Board of Correction:
IDAPA 06.01.01 - Rules of the Board of Correction (Docket No. 06-0101-1202).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10/17/2012. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/15/2012.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

FROM: Principal Legislative Research Analyst - Brooke Murdoch

DATE: September 27, 2012

SUBJECT: Board of Correction

IDAPA 06.01.01 - Rules of the Board of Correction (Docket No. 06-0101-1202)

The Board of Correction submits notice of proclamation of rulemaking at IDAPA 06.01.01, which accomplishes the following:

- (1) Establishes a Department of Correction fee structure, which includes the following fees:
 - (a) Presentence investigation fee, authorized by Section 19-2516, Idaho Code;
 - (b) Cost of supervision fee, authorized by Section 20-225, Idaho Code;
 - (c) Interstate compact application fee, authorized by Section 20-225A, Idaho Code;
 - (d) Maintenance/room and board fee, authorized by Section 20-242, Idaho Code;
 - (e) Hobby craft surcharge, set in Department standard operating procedure;
 - (f) Photo copying fee, set in Department standard operating procedure; and
 - (g) Medical co-pay fee, set in Department standard operating procedure;
- (2) Revises identification requirements for Department visitors entering Department property;
- (3) Prohibits the entrance into a correctional facility or community work center while in possession of a firearm or other deadly or dangerous weapon, unless approved by the Board, director or division chief;
- (4) Prohibits the entrance into restricted areas of a Department central office or district probation and parole office while in possession of a firearm or other deadly or dangerous weapon and provides an exception for on-duty law enforcement and Department staff who have been authorized by the Board to possess a firearm while on duty;
- (5) Revises provisions relating to the disposition of an incarcerated deceased offender's money and property; and

(6) Revises and provides additional provisions relating to access to Department properties, which specify persons and vehicles subject to search, photo identification requirements, the prohibition of contraband and the termination of a visit, tour, sanctioned activity or service.

There is no increase in fees imposed by this rulemaking. The effective date of this rule is November 2, 2012.

The Board's rule appears to be authorized pursuant to the provisions of Section 20-12, Idaho Code.

cc: Idaho Department of Correction
Lorenzo Washington, Policy Coordinator

IDAPA 06 - BOARD OF CORRECTION

06.01.01 - RULES OF THE BOARD OF CORRECTION

DOCKET NO. 06-0101-1202

NOTICE OF PROCLAMATION OF RULEMAKING

EFFECTIVE DATE: The effective date of this rule is November 2, 2012.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. Section 20-212, Idaho Code, requires the Idaho State Board of Correction to make rules. Pursuant to Section 20-212(1), Idaho Code, rules of the Idaho State Board of Correction are subject to review of the Idaho State Legislature pursuant to Sections 67-454, 67-5291, and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the Board, except as otherwise specifically provided by statute. In accordance with Section 20-212(1) of the Idaho Code, this rule shall become final and effective thirty (30) days after the date of publication in the Idaho Administrative Bulletin.

PUBLIC HEARING SCHEDULE: Pursuant to Section 20-212(1), Idaho Code, public hearing(s) concerning this rulemaking will not be scheduled.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rulemaking is necessary to reflect current Idaho Department of Correction (IDOC) practices, standards, policies, procedures, and directives. Board of Correction rule changes are summarized by sections as follows:

000. Legal Authority - The amendment to subsection 02 is purely administrative housekeeping in nature. It does not change the intent or meaning of the subsection.

013. Department Fee Structure – This is a new section that describes the fees that the IDOC may charge to help defray the cost of services provided to offenders. The fees themselves are not new fees but fees the IDOC has been charging and collecting for a number of years now.

117. Department Visitors – The amendment of this rule is necessary for the purpose of protecting staff and/or IDOC property from harm or theft. The amendment ensures better identification and accountability of IDOC visitors and puts in place restrictions from bringing firearms and other deadly weapons into secured areas of IDOC property.

123. Public Visits and Tours of Facilities – The amendment to subsection 01.a. is purely administrative housekeeping in nature. It does not change the intent or meaning of the subsection.

312. Deceased Offenders – The amendment of this rule is necessary to make the entire section comprehensively reflect operational practices currently being used by the IDOC regarding a deceased offender's money and property.

405. Court Proceedings Within a Facility – The amendment to this section is purely administrative housekeeping in nature. It does not change the intent or meaning of the section.

510. Searches of Persons and Vehicles Entering Department Facilities – This section is being deleted in its entirety due to being combined with section 511.

511. Access to Department Properties – The amendment of this rule is necessary for the purpose of protecting staff and offenders from harm. The amendment ensures better identification and accountability of IDOC visitors and bans visitors from bringing contraband and controlled substances into IDOC correctional facilities, community work centers, and district probation and parole offices. The amendment of this rule is also necessary to make the entire section comprehensively reflect operational practices currently being used by the IDOC correctional facilities, CWCs, and district probation and parole offices.

601. Public Participation in Inmate Athletic Events – The amendment to this section is purely administrative housekeeping in nature. It does not change the intent or meaning of the section.

604. Visiting Inmates – The amendment to subsections 01., 07., 09., and 10. is purely administrative housekeeping in nature. It does not change the intent or meaning of the subsections.

606. Volunteer Services – The amendment to subsection 05 is purely administrative housekeeping in nature. It does not change the intent or meaning of the subsection.

607. Public Participation in Program Activities – The amendment to this section is purely administrative housekeeping in nature. It does not change the intent or meaning of the section.

FEE SUMMARY: There is no increase in fees imposed with this rulemaking.

FISCAL IMPACT: There is no fiscal impact on general funds for this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because Section 20-212(1) exempts the Idaho State Board of Correction from conducting negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lorenzo Washington, Policy Coordinator, at (208) 658-2133.

DATED this 31st day of August, 2012.

Lorenzo Washington
Policy Coordinator
Idaho Department of Correction
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Boise, ID 83706
Ph: (208)658-2133
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THE FOLLOWING IS THE PROCLAMATION OF TEXT FOR DOCKET NO. 06-0101-1202

000. LEGAL AUTHORITY.

01. Sections 9-340B and 9-347, Idaho Code. Pursuant to Section 9-340B, Idaho Code, the Board shall adopt rules that identify certain department records to be exempt from public disclosure. Pursuant to Section 9-347, Idaho Code, the Board shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the department, the custodian and the physical location of such documents. (7-6-01)

02. Section 18-2510, Idaho Code. Pursuant to Section 18-2510, Idaho Code, it is a crime to convey articles, letters, or things into and out of Department facilities contrary to Department procedures, directives and Section 5101. (~~11-5-99~~)()

03. Section 20-101D, Idaho Code. Pursuant to Section 20-101D, Idaho Code, the Board shall adopt rules for meritorious conduct sentence reduction. (11-5-10)

04. Section 20-209, Idaho Code. Pursuant to Section 20-209, Idaho Code, the Board shall have control, direction and management of all correctional facilities and property used in connection with correctional facilities. (11-5-99)

05. Section 20-212, Idaho Code. Pursuant to Section 20-212, Idaho Code, the Board shall make all rules necessary to carry out the provisions of Title 20, Chapter 2, Idaho Code, not inconsistent with express statutes or the state constitution. (11-5-99)

06. Section 20-217A, Idaho Code. Pursuant to Section 20-217A, Idaho Code, the director shall assume all the authority, powers, functions and duties as may be delegated to him by the Board. (11-5-99)

07. Section 20-244, Idaho Code. Pursuant to Section 20-244, Idaho Code, the Board shall make and adopt such rules as they may deem necessary for the government and discipline of the correctional facilities. (11-5-99)

(BREAK IN CONTINUITY OF SECTIONS)

013. DEPARTMENT FEE STRUCTURE.

In order to help the Department defray the cost of various services provided to offenders, the Department may charge the following fees. ()

01. Presentence Investigation Fee. Pursuant to Section 19-2516, Idaho Code, if a court orders a presentence investigation to be conducted, the court shall order the defendant to pay up to one hundred dollars (\$100) as determined by the Department as repayment for the cost of conducting the presentence investigation and preparing the presentence investigation report. ()

02. Cost of Supervision Fee. Pursuant to Section 20-225, Idaho Code, the Department may charge offenders who are on probation or parole supervision a fee up to seventy-five dollars (\$75) per month. Costs of supervision are the direct and indirect costs incurred by the Department to supervise probationers and parolees, including tests to determine drug and alcohol use, books, and written materials to support rehabilitation efforts, and monitoring of physical location through the use of technology. ()

03. Interstate Compact Application Fee. Pursuant to Section 20-225A, Idaho Code, the Department may charge any person under state probation or parole supervision who applies for a transfer of supervision to another state an application fee up to one hundred dollars (\$100). ()

04. Maintenance/Room and Board Fee. Pursuant to Section 20-242, Idaho Code, the Department may require that prisoners pay an amount to the Board sufficient for the prisoner's board and personal expenses, both inside and outside the jail, facility, or residence, including costs of administering such prisoner's work furlough program, laundry service fee, and travel or van service fee. The Department currently sets these fees in Department standard operating procedure. ()

05. Hobby Craft Surcharge. Pursuant to Department standard operating procedure, the Department may charge offenders who participate in facility hobby craft activities a surcharge to offset the cost of hobby craft supplies and items that are used by participating offenders, such as hobby shop tools. The Department currently sets the fee in Department standard operating procedure. ()

06. Photo Copying Fee. Pursuant to Department standard operating procedure, the Department may charge offenders a fee for photocopying court documents relating to qualified legal claims or other documents as authorized by the Department. Offenders will not be denied access to courts based on their inability to pay for photocopies related to qualified legal claims. The Department currently sets the fee in Department standard operating procedure. ()

07. Medical Co-Pay Fee. Pursuant to Section 20-209, Idaho Code, the Board shall provide for the care, maintenance and employment of all prisoners now or hereinafter committed to its custody. In order to offset the costs associated therewith, the Department may charge offenders a fee for medical services. The IDOC and/or contract medical provider shall not deny an offender access to healthcare services based on the offender's inability to pay. The Department currently sets the fee in Department standard operating procedure. ()

0134. -- 103. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

117. **CENTRAL OFFICE DEPARTMENT VISITORS.**

~~The Board and Department business should shall be conducted in a safe and secure environment. Identification of visitors in the Department central office building is necessary to ensure staff safety and building security. All visitors and visiting staff having business at the Department central office building shall identify themselves to the receptionist upon entering the building.~~ (11-5-99)()

01. Identification. ~~The identification of all Department visitors is necessary to ensure staff safety and building security. All Department visitors shall identify themselves to Department staff upon entering into Department property. The identification of frequent visitors and visiting employees may be made by visual recognition and/or the request to see a Department-issued identification card or law enforcement/peace officer badge. Other The identification of all other visitors, not inclusive of officials escorted by a member of the Board, director, division chief, deputy division chief, district manager, or facility head, shall be through photo identification and/or law enforcement/peace officer badge.~~ (11-5-99)()

02. Visitor Sign-In and Sign-Out. ~~All Department visitors and visiting staff will shall sign-in the visitor's log, located at the receptionist's desk. All visitors and visiting staff will sign out when departing upon entering into Department property and sign out upon exiting Department property.~~ (11-5-99)()

03. Possessing Firearms and Other Deadly or Dangerous Weapons. ~~Without the approval of the Board, director, or division chief, no person shall be allowed to enter into a correctional facility or community work center (CWC) with a firearm or other deadly or dangerous weapon (see Section 511). With the exception of on-duty law enforcement and Department staff who have been authorized by the Board to possess a firearm while on duty, no other persons shall be allowed to enter into restricted areas of a Department central office or district probation and parole office with a firearm or other deadly or dangerous weapon. For the purpose of this subsection only, the following terms and definitions shall apply:~~ ()

a. ~~'Restricted area' shall mean any area Department property in which certain security measures are carried out for the purpose of protecting staff and/or Department property from harm or theft.~~ ()

b. ~~'Possess' shall mean to bring a weapon, firearm, or other deadly or dangerous weapon, or to cause such items to be brought into Department property or Department vehicles.~~ ()

c. ~~'Firearm' shall mean any weapon, whether loaded or unloaded, from which a shot, projectile, or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether such firearm is operable or inoperable.~~ ()

d. ~~'Deadly or dangerous weapon' shall mean a weapon, device, instrument, material, or substance that is used for, or is readily capable of, causing death or serious bodily injury.~~ ()

118. -- 122. (RESERVED)

123. **PUBLIC VISITS AND TOURS OF FACILITIES.**

The Department may allow tours of facilities and property according to procedures approved by the director (also see Section 511). Tours will generally take place during normal business hours or at times which ensure the safety and convenience of the facility or Department property. (10-5-07)

01. Persons Subject to Facility Rules and Regulations. All persons touring a facility or Department property are subject to the rules, policies, directives, standard operating procedures, and field memoranda regarding facility access, which Department guides shall explain before the beginning of the tour. (10-5-07)

a. All persons touring a facility or Department property may be subject to search (also see Section 5101). Discovery of any contraband, as defined in Subsection 010.08, shall be grounds for immediate termination of the tour and referral to local law enforcement for possible prosecution of a criminal offense. (10-5-07)()

b. All persons touring a facility must be at least eighteen (18) years old or if under eighteen (18), must be accompanied by a parent or guardian or have written permission from the parent or guardian, unless approved by the director or designee. (11-5-99)

02. **Attendance at Events.** Under certain circumstances and with an invitation from a Department employee, an individual may attend athletic games and various other events held at a facility as long as attendance does not interfere with penological interests (Also see Sections 601 and 607). (10-5-07)

(BREAK IN CONTINUITY OF SECTIONS)

312. DECEASED INMATES OFFENDERS.

01. **Notice to Coroner and Family Notifications.** Upon verification of the death of an inmate incarcerated offender, the facility head (or designee) shall notify the county coroner where of the county in which the facility is located and the inmate's offender's family as listed in the case management file in accordance with emergency contact information the offender has on file with the facility. (11-5-99)()

02. **Autopsy and Inquest.** The coroner shall determine if an autopsy should be performed in accordance with state law and the interests of the public. The Department shall seek an autopsy in all cases of violent or sudden and unexpected death. The coroner shall hold an inquest as required by Section 31-2802~~1~~, Idaho Code, unless the autopsy was waived. (11-5-99)()

03. **Delivery of the Body to a Funeral Home.** As soon as possible after the death of the inmate incarcerated offender, the facility head (or designee) shall arrange for the body to be delivered to coroner or a funeral home. The deceased inmate's offender's family, if any, shall be told where the body may be claimed and if the family claims the body, the family shall be responsible for all costs of interment. (11-5-99)()

04. **Body Not Claimed.** In cases where the coroner has performed an autopsy and the body has been released but not claimed, or where the body has not been claimed within seventy-two (72) hours after death and a reasonable and good faith effort was made to notify the deceased inmate's offender's family, the facility head (or designee) shall arrange with a funeral home for interment. If there is not sufficient property in the estate of the deceased inmate offender to pay the necessary expenses of interment, the expenses are a legal charge against the county where the facility is located pursuant to Section 31-2802, Idaho Code. The director of the Department may, in his sole discretion, accept financial responsibility for the costs of interment on behalf of the Department. When the Department accepts financial responsibility for the costs of interment, the interment will be by cremation. (11-5-99)()

05. **Disposition of the Deceased Inmate Offender's Money and Property.** ~~The deceased inmate's personal property and assets held by the department shall be applied toward the costs of interment first. Any monies or property claimed by the deceased inmate's legal representative shall not be released without a written agreement signed by the legal representative to pay the costs of interment.~~ After the death of an incarcerated offender, the facility head (or designee) will make a good-faith effort to locate the person or charitable organization the deceased offender designated in emergency contact information to receive his money and property after interment and property mailing decisions have been made. (11-5-99)()

a. ~~The remainder of any money or property after deduction of the costs of interment shall be released to the deceased inmate's legal representative. The legal representative shall present written documentation of the representative's powers and authority.~~ In cases where none of the deceased offender's family or friends take financial responsibility for the deceased offender's interment, the Department shall first apply the deceased offender's money towards the offender's interment. (11-5-99)()

b. ~~If no person claims the money or property of the deceased inmate within thirty (30) days from the date of death, the facility head where the deceased inmate was housed at the time of death shall deliver all money or property to the local public administrator for probate pursuant to Title 14, Chapter 1, Idaho Code. In cases where the person or charitable organization the deceased offender designated to receive his property and the designated person or charitable organization requests that the deceased offender's property be mailed, the Department shall secondly apply the deceased offender's money towards the cost of mailing the deceased offender's property to the person or charitable organization. If no money remains to cover the cost of mailing the deceased offender's property, the person or charitable organization will have to arrange with the facility to pickup the property, or if the person or charitable organization declines to pickup the property, the Department may dispose of the property in accordance with Department standard operating procedure.~~ (11-5-99)()

c. ~~Any money remaining after the deduction of interment and property mailing costs shall be released by the Department to the person or charitable organization the deceased offender designated in emergency contact information to receive his money and property.~~ ()

i. ~~If the Department is unable to locate the person or charitable organization designated to receive the deceased offender's money, the Department will hold the money for up to two (2) fiscal years and then process the money as unclaimed funds. The Department shall submit all unclaimed funds to the Idaho State Treasurer's Office.~~ ()

ii. ~~If the Department is unable to locate the person or charitable organization designated to receive the deceased offender's property, the Department will hold the property for up to one hundred eighty (180) days and then donate or destroy the property in accordance with Department standard operating procedure.~~ ()

06. ~~**Inmates Offenders Housed in Non-Department Facilities.** If an inmate incarcerated offender in the custody of the Board dies while housed in a non-Department facility, the Department shall pay for costs of disposition of the body, unless other arrangements are stated in an agreement or contract with the non-Department facility or unless the family shall claim the body of the deceased inmate offender.~~ (11-5-99)()

(BREAK IN CONTINUITY OF SECTIONS)

405. COURT PROCEEDINGS WITHIN A FACILITY.

The Department may make a conference or court room within a facility available to a state or federal court for the purpose of holding a hearing or trial upon a claim involving an inmate or group of inmates when doing so will not be contrary to penological interests. The facility head, in his sole discretion, may allow members of the public who are not witnesses to the proceeding in to the facility to observe the proceeding when in the opinion of the facility head doing so will not be contrary to penological interests. (Also see Sections ~~510~~, 511, and 604.) (10-5-07)()

(BREAK IN CONTINUITY OF SECTIONS)

504. -- ~~509~~10. (RESERVED)

~~**510. SEARCHES OF PERSONS AND VEHICLES ENTERING DEPARTMENT FACILITIES.**~~

~~In order to maintain the secure and orderly operation of the facilities, the Department shall control access to all Department facilities. All persons enter upon or in to a Department property or facility at their own risk and will be required to comply with security and control measures. (Also see Section 511.)~~ (10-5-07)

~~**01. Persons Subject to Search.** All persons and vehicles entering a facility or upon Department property are subject to search.~~ (11-5-99)

~~**02. Photo Identification Required.** Adults entering a facility or upon Department property are required to possess and present, on demand, photo identification. The Department will establish identification procedures for minor children in standard operating procedures. (Also see Section 604.)~~ (10-5-07)

~~03. **Contraband Prohibited.** Any person who brings or attempts to bring any item or article of contraband into a facility or onto Department property will be subject to arrest and prosecution pursuant to Section 18-2510, Idaho Code. (10-5-07)~~

~~a. Members of the public bringing contraband on to or in a facility or Department property during a visit, tour or other sanctioned activity will be subject to immediate and permanent cancellation of the visit, tour or other sanctioned activity. (10-5-07)~~

~~b. Vendors, contractors, interns, volunteers or employees bringing contraband on to or in a facility, Department property or inmate work site will be subject to immediate termination of services as a vendor, contractor, intern, volunteer or employee. (10-5-07)~~

511. ACCESS TO DEPARTMENT ~~FACILITIES~~ PROPERTIES.

~~In order to maintain the secure and orderly operation of Department correctional facilities, community work centers (CWCs), and district probation and parole offices, the Department shall control access to these Department properties. Any person entering onto and/or into a correctional facility, CWC, or district probation and parole office property, shall do so at his own risk and will be required to comply with all written and/or verbal security and control measures. The Department shall not allow public access to any ~~Department property or~~ correctional facility, CWC, or district probation and parole office property without approval of the Board, director, division chief, deputy division chief, district manager, or facility head, ~~or designees~~. The Department may consider any person who enters onto ~~Department property and/or~~ into a correctional facility, CWC, or district probation and parole office property without a business purpose or approval to be trespassing and subject to arrest and prosecution pursuant to Idaho Code. ~~(Also see Section 510.) (10-5-07)()~~~~

01. Access and Egress Control. The Department will establish standard operating procedure to control access to and egress from all Department properties and facilities. (10-5-07)

02. Persons Subject to Search. All persons entering onto ~~Department property and/or~~ into facilities ~~are~~ a correctional facility, CWC, or district probation and parole office property, may be subject to search ~~(see Section 510.) (10-5-07)()~~

03. Vehicles Subject to Search. All vehicles entering onto a correctional facility, CWC, or district probation and parole office property may be subject to search. All vehicles entering the secure perimeter of a correctional facility shall be searched upon entering and exiting the facility. While within the secure perimeter of a correctional facility, unattended vehicles must be locked and have keys removed. ()

04. Photo Identification Required. All photo identification requirements described in Section 117 shall apply to all persons entering into a Department correctional facility, CWC, or district probation and parole office property. The Department shall establish identification procedures for minor children visiting with offenders in standard operating procedures. (Also see Section 604.) ()

05. Contraband Prohibited. The items allowed onto and/or into a correctional facility, CWC, or district probation and parole office property shall be controlled. Unauthorized items are called contraband. Members of the public bringing contraband onto and/or into a correctional facility, CWC, or district probation and parole office property during a visit, tour, or other sanctioned activity shall be subject to immediate and permanent cancellation of the visit, tour, or other sanctioned activity. ()

a. Any person who brings or attempts to bring contraband onto and/or into a correctional facility or CWC property shall be subject to arrest and prosecution pursuant to Section 18-2510, Idaho Code. ()

b. Any person who brings or attempts to bring controlled substances onto and/or into a district probation and parole office property shall be subject to arrest and prosecution pursuant to Section 37-2732, Idaho Code. ()

c. Any person who brings a firearm into restricted areas of a district probation and parole office property shall be subject to Section 117 of these rules. ()

06. Termination of Visit, Tour, Sanctioned Activities, and Services. Any member of the public bringing contraband onto and/or into a correctional facility, CWC, or district probation and parole office property during a visit, tour, or other sanctioned activity will be subject to immediate and permanent cancellation of the visit, tour, or other sanctioned activity. Vendors, contractors, interns, volunteers, or employees bringing contraband onto and/or into a correctional facility, CWC, or district probation and parole office property or offender work site may be subject to immediate termination of services as a vendor, contractor, intern, volunteer, or employee. ()

512. -- 600. (RESERVED)

601. PUBLIC PARTICIPATION IN INMATE ATHLETIC EVENTS.

Members of the public may participate in and compete against inmates in athletic events held within or without a facility upon the written approval of the chief of the division governing the facility. Such competition shall not interfere with inmate work or training programs. (Also see Sections 123, ~~510~~, and 511.) (10-5-07)()

602. -- 603. (RESERVED)

604. VISITING INMATES.

01. No Right to Visit Established. Nothing in Section 604 establishes a right to visit any inmate. Nothing in Section 604 should be interpreted as an expectation that visitation will be approved between any person and any inmate if the Department has suspended, terminated, or revoked a visitor or inmate's visiting privileges. (Also see Sections 405, ~~510~~, and 511.) (10-5-07)()

602. -- 603. (RESERVED)

604. VISITING INMATES.

01. No Right to Visit Established. Nothing in Section 604 establishes a right to visit any inmate. Nothing in Section 604 should be interpreted as an expectation that visitation will be approved between any person and any inmate if the Department has suspended, terminated, or revoked a visitor or inmate's visiting privileges. (Also see Sections 405, 510, and 511.) (10-5-07)

02. Visitation at the Discretion of the Department. Inmate visitation is allowed at the discretion of the facility head or designee. Each division may develop standard operating procedures and field memoranda to govern inmate visiting. Whether a visit is contact or non-contact will be at the discretion of the facility head in accordance with standard operating procedures. (10-5-07)

03. Visitation Lists. To visit an inmate, a person must apply with the facility, on an approved Department form. Only persons approved to be on an inmate's visiting list may visit with an inmate, except as noted in Subsection 604.04. (10-5-07)

a. Visitors are responsible for reading and following the Department's rules that govern visiting. The rules can be found at the Department's website or they can be obtained at the facility visiting room during visiting hours. (10-5-07)

b. A person applying to visit an inmate is subject to a criminal background investigation and check for outstanding warrants. (10-5-07)

04. One-time and Special Visits. The facility head, or designee may approve a one-time or special visit between an inmate and a person who is not on the inmate's visiting list. Guidelines for approving one-time and special visits are provided in standard operating procedures. Application to the facility head for a one-time or special visit must be made at least twenty-four (24) hours before the visit. (10-5-07)

05. Restricted Visitors. The following people will not be granted permission to visit an inmate, except as noted in Subsection 604.05: (10-5-07)

a. Applications to visit from former inmates will be considered on an individual basis. Guidelines for

approval are provided in standard operating procedures. (10-5-07)

b. A probationer or parolee shall not be approved for visiting until a minimum of six (6) months has passed since release to probation or parole and then only with the written approval of the supervising probation or parole officer and the facility head or designee. (10-5-07)

c. Minor children are not allowed to visit an inmate unless the minor is the immediate family of the inmate. A minor must be accompanied at all times during the visit by a parent, legal guardian, or state-appointed case manager. A minor claiming relationship to the inmate as a stepchild cannot visit unless the visiting parent obtains and files with the facility head a signed statement from the other natural parent authorizing and giving permission for the visit with the inmate. If the other natural parent's whereabouts are unknown, the parent making application is responsible for establishing, to the satisfaction of the facility head, the unavailability of the other natural parent. Guidelines for submitting visiting applications for minor children are provided in standard operating procedures. (10-5-07)

d. A minor child who was the victim of a violent or sexual crime where the inmate was the perpetrator of the crime, whether a conviction resulted or not, cannot visit the inmate unless all of the following conditions in Subsections 604.05.d.i. through 604.05.d.iii. are met: (10-5-07)

i. A written recommendation is submitted from a licensed counselor who provided counseling to the child, indicating the visit will enhance the counseling process and is in the child's best interest. The recommendation must include the length of time the counselor provided counseling to the victim, the counselor's training and experience in counseling victims of violent and/or sexual crimes, and why it is now in the best interest of the child to allow visitation with the inmate. (10-5-07)

ii. The visitation request must be approved by the facility head, based on the best interest of the minor child. What is in the best interest of the minor will be determined at the discretion of the facility head. (10-5-07)

iii. The facility head may impose additional visitation restrictions on inmates convicted of a violent or sexual crime when visiting minor children. (10-5-07)

e. A Department employee, volunteer, vendor, intern, or contractor cannot visit an inmate, unless the Department employee, volunteer, vendor, intern, or contractor is the immediate family of the inmate and the facility head approves the visiting application. (10-5-07)

f. If a former Department employee, volunteer, vendor, intern, or contractor applies to visit an inmate and it is determined that the applicant violated any Department rule and/or Section of Idaho Code, the application will normally be denied. (10-5-07)

g. If the applicant is not immediate family of the inmate, the applicant cannot visit an inmate unless the applicant terminates the relationship of employee, volunteer, vendor, intern, or contractor with the Department, and then the person cannot visit an inmate unless the chief of the division that governs the facility approves the visiting application. Nothing in this section guarantees that a former employee, volunteer, vendor, intern, or contractor will be approved to visit an inmate. (10-5-07)

h. A person shall not be on the approved visiting list for more than one (1) inmate at a time unless the person is the immediate family of more than one (1) inmate being visited. A person will not be approved to visit an inmate if, within six (6) months before the current application, the person was an approved visitor on another inmate's visiting list. (10-5-07)

i. A person claiming to be immediate family of an inmate may be required to provide proof of relationship through documentation. The level of proof required will be at the discretion of the facility head and in accordance with standard operating procedures. (10-5-07)

j. A person who has pending criminal charges or who is the subject of a criminal investigation will not be permitted to visit an inmate, except upon written approval of the facility head or designee. (10-5-07)

06. Termination of Visits. A visit may be suspended, restricted, or terminated at any time, for any period of time (including permanently), for violation of any: (10-5-07)

- a. Board rule; (10-5-07)
- b. Department policy, standard operating procedure, directive, field memoranda; or (10-5-07)
- c. At the discretion of the facility head or designee in accordance with standard operating procedures. (10-5-07)

d. Persons who have had visiting privileges permanently terminated may apply within fourteen (14) days to the chief of the division that governs the facility for reconsideration of the termination decision, and on an annual basis thereafter. (10-5-07)

07. Attorney Visits With Inmates. An attorney or his approved agent may visit with an inmate consistent with this section. The facility head or designee may prohibit a visit if the visitor violates or attempts to violate any Department rules. The facility head shall determine whether the visits will be contact or non-contact visits. (Also see Sections ~~510 and~~ 511.) ~~(10-5-07)~~()

08. Attorney Visiting Hours. The facility head will designate visiting hours for attorney visits, which will normally be Monday through Friday, from 8 a.m. through 4 p.m. The facility head or designee may approve special visiting hours. Visits must be scheduled twenty-four (24) hours in advance. (10-5-07)

09. Attorney Visits With Death Sentenced Inmates. Visits between inmates under the sentence of death and attorneys will be made in substantial compliance with Section 19-2705, Idaho Code. Attorneys and their agents shall comply with this Subsection 604.09 and all facility regulations, policies, and standard operating procedures governing visiting. (Also see Sections ~~510 and~~ 511.) ~~(10-5-07)~~()

10. Attorney Visits With Groups of Inmates. Visits with groups of inmates will not be permitted unless the Office of the Attorney General has verified class certification or co-parties. Staff will directly supervise visits between groups of inmates and attorneys or their approved agents. (Also see Sections 510 and 511.) (10-5-07)

605. (RESERVED)

606. VOLUNTEER SERVICES.

01. Volunteer Services Established. The Department may establish a program of volunteer services within the facilities. Based on penological interests, volunteers may be used to enhance and expand inmate activities. (10-5-07)

02. Facility Head Approves Volunteers. The facility head shall be the approving authority for all volunteers. Each facility head may designate staff members to coordinate and oversee the volunteer program. (10-5-07)

03. Screening Process. The screening process for volunteers shall include a criminal background check. (11-5-99)

04. Orientation and Training. Orientation and training of volunteers shall include completion of a Department-approved training curriculum. (10-5-07)

05. Visiting with Inmates. Volunteers are not allowed to visit any inmate unless the inmate is an immediate family member of the volunteer. (Also see Sections ~~510, 511, and~~ 604.) ~~(10-5-07)~~()

607. PUBLIC PARTICIPATION IN PROGRAM ACTIVITIES.

The public may participate in program activities with an inmate or group of inmates upon written approval of the facility head where the inmate is housed, if housed in a Department facility, or upon written approval of the chief of the division of prisons, if housed in a county facility. (Also see Sections ~~510 and~~ 511.) ~~(10-5-07)~~()