

DEPARTMENT OF CORRECTIONS AND REHABILITATION

DIVISION OF JUVENILE JUSTICE

Title 15, California Code of Regulations

Sections 4845, 4846, 4847, 4848, 4848.5, 4849, 4850, 4851, 4852, 4853, 4900, 4926, 4927, 4929, 4935, 4936, 4937.5, 4938, 4938.5, 4939.5, 4940, 4961.1, 4977, 4977.5, 4977.6, 4977.7, 4978, 4979, 4980, 4980.5, 4981, 4982, 4983, 4983.5

Parole Violation, Detention and Revocation; General Provisions; Rules of Construction & Definitions; General Rules on Hearings; Appeals; Special Hearings & Actions in Institutions; and Parole Violation

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) proposes to amend Sections 4845, 4846, 4847, 4848, 4849, 4850, 4851, 4900, 4926, 4927, 4929, 4935, 4936, 4940, 4977, 4978, 4979, 4980, 4981, 4982, 4983, and adopt Sections 4848.5, 4852, 4853, 4935.5, 4937.5, 4938.5, 4961.1, 4977.5, 4977.6, 4977.7, 4980.5, and 4983.5 of the California Code of Regulations (CCR), Title 15, Division 4 & 4.5 respectively, in accordance with the L.H. Stipulated Order for Permanent Injunctive Relief.

PUBLIC HEARING

The DJJ has not scheduled a public hearing on this proposed action. However, the DJJ will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

The public comment period will close, [November 1, 2010](#). Any interested person may submit public comments in writing (by mail, by fax, or by e-mail) relevant to this proposed regulatory action. To be considered by the DJJ, written comments must be submitted to the DJJ, Policy, Procedures, Programs, and Regulation (PPP&R) Unit, 4241 Williamsborough Drive, Suite 117, Sacramento, CA 95823; by fax at (916) 262-2608; or by e-mail at DJJ-PPP&RUnit@cdcr.ca.gov before the close of the comment period.

AUTHORITY

Welfare and Institutions (W&I) Code Sections 1001, 1004 and 1712 assign responsibility to the CDCR, DJJ to make and enforce all rules appropriate to the proper accomplishment of the functions of the DJJ for care, supervision, education, training, employment, discipline and government. Section 1719 of the W&I Code assigns responsibility of discharges of commitment, orders of parole and conditions thereof, revocation or suspension of parole and disciplinary appeals to the Board of Parole Hearings (BPH). Section 1766 of the W&I Code establishes the powers of review and appeal procedures for the BPH. Section 1725 of the W&I abolishes the Youthful Offender Parole Board (YOPB) and transfers the commissioners handling juvenile parole matters, and transfers their duties, to the Chief Deputy Secretary of DJJ.

REFERENCE

This action is proposed to implement, interpret, and/or make specific Sections 224.70(e), 1000, 1703(c), 1703(d), 1711, 1712, 1714, 1716, 1719, 1720, 1723, 1725, 1752, 1766, 1767.2, 1767.3, and 1911 of the Welfare and Institutions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Department of Corrections and Rehabilitation (CDCR) Division of Juvenile Justice (DJJ) proposes to amend Sections 4845, 4846, 4847, 4848, 4849, and 4851, and to adopt Sections 4848.5, 4852, and 4853 of the California Code of Regulations (CCR), Title 15, Division 4, pertaining to Parole Violation, Detention, and Revocation. In addition, DJJ proposes to adopt Sections 4939.5, 4961.1, 4977.5, 4977.6, 4977.7, 4980.5, and 4983.5, and to amend Sections 4900, 4926, 4927, 4929, 4935, 4936, 4937.5, 4938, 4938.5, 4940, 4977, 4978, 4979, 4980, 4981, 4982, and 4983 of the California Code of Regulations (CCR), Title 15, Division 4.5, in accordance with the L.H. Stipulated Order for Permanent Injunctive Relief.

In October 2008, the United States District Court for the Eastern District of California in L.H. vs. Schwarzenegger, Case No. 2:06-CV-02042-LKK-GGH, issued a stipulated order of permanent injunctive relief. To comply with the order, DJJ is revising the process for juvenile parole violation, detention, and revocation; addressing the timelines of hearings and other due process proceedings in regard to parole revocation; clarifying the youth appeals process; adding and revising definitions relating to the parole revocation process; and establishing a process for parole violations.

According to W&I Code Section 1767.3(a), the Juvenile Parole Board may suspend, cancel, or revoke any parole and may order returned to custody, as specified in Section 1767.35, any person under the jurisdiction of the Division of Juvenile Parole Operations.

The L.H. lawsuit challenges violations of juvenile parolees' rights under the Due Process Clause of the Fourteenth Amendment of the United States Constitution, the Rehabilitation Act, and the Americans with Disabilities Act (ADA). The lawsuit asked the federal court to order the CDCR, DJJ, Board of Parole Hearings (BPH), and Juvenile Parole Board (JPB) to change juvenile parole revocation procedures to comply with the Constitution and the ADA.

Forms Incorporated by Reference:

- Notice of Conditions of Parole – DJJ 3.207 (Rev. 04/10)
- Request for Accommodation and Assistance – DJJ 3.260 (New 01/09)
- Violation Report – Charge Section - DJJ 3.264A (Rev. 09/09)
- Violation Report – Detention Section – DJJ 3.264B (Rev. 09/09)
- Violation Report – Disposition Section – DJJ 3.264C (Rev. 09/09)
- Notice of Parole Revocation Rights and Acknowledgement – DJJ 3.270 (REV 08/10)
- Notice of Charges – DJJ 3.274 (REV 04/09)

CONTACT PERSONS

Please direct any inquiries regarding this action to:

Phyllis Green
Policy, Procedures, Programs, and Regulations Unit
Division of Juvenile Justice
(916) 262-3178

Questions regarding the substance of the proposed regulations should be directed to:

Cynthia Chen
Office of Legal Affairs
California Dept. of Corrections & Rehabilitation
(916) 262-1426

In the event the contact persons are not available, inquiries may be directed to the following back-up contact:

Policy, Procedures, Programs, and Regulations Unit
Division of Juvenile Justice
(916) 262-1431

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None
- Cost or savings to any state agency: None
- Other non-discretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: None

EFFECT ON HOUSING COSTS

The DJJ has made an initial determination that the proposed regulations will not have a significant effect on housing costs.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The DJJ is not aware of any cost impact that a representative private person or business would incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The DJJ 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 business in other states.

EFFECT ON SMALL BUSINESS

The DJJ has determined that the proposed regulations will not affect small business due to the fact the rules apply only to DJJ staff (e.g., Division of Juvenile Parole Operations, Juvenile Parole Board, Division of Juvenile Facilities) and youth in the custody of DJJ.

ASSESSMENT

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The DJJ has determined that the proposed regulations will have no effect on the creation of new jobs or businesses within California or the elimination of existing jobs or businesses, nor would the regulations affect the expansion of businesses currently operating within California.

ALTERNATIVES CONSIDERED

The DJJ must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND PROPOSED TEXT

The DJJ has prepared the initial statement of reasons and the proposed text of the regulations. All documents pertaining to this regulatory action, including the express terms of this proposed action and all information on which the proposal is based, are available to the public upon request from the agency contact person indicated within this notice.

INTERNET ACCESS

Materials regarding this proposed regulatory action can be accessed from the CDCR's website at <http://www.cdc.ca.gov>

AVAILABILITY OF FINAL STATEMENT OF REASONS

Once completed, the final statement of reasons will be available upon request from the agency contact person indicated within this notice and posted at the above CDCR website.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the DJJ, upon its own motion, may adopt the proposal substantially as set forth above without further notice.

If the regulation text is modified by the DJJ and the changes are sufficiently related to the originally proposed action, the DJJ will make the modified text available (with the changes clearly indicated) to the public for at least 15 days prior to adopting the amended regulations. The DJJ will accept written comments pertaining to only the modified text during the 15-day period prior to adoption of the revised text. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice.