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THE FLORIDA LEGISLATURE  
**JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE**

June 1, 2018

Mr. Gregory L. Hill  
Assistant General Counsel  
Department of Corrections  
501 South Calhoun Street  
Tallahassee, Florida 32399-2500

**RE: Department of Corrections  
Rule 33-601.722**

Dear Mr. Hill:

I have reviewed the Notice of Change published May 9, 2018, and your response received May 11, 2018, regarding the above-referenced rule and offer the following comments for your consideration and response:

**33-601.722:** Please advise as to the comment below from my letter dated March 29, 2018.

Law Implemented

Although relevant to visitation, please explain how the contents of sections 944.151, 944.23, and 944.47, Florida Statutes, are specifically implemented by this rule.

**33-601.722:** Please advise as to the remaining comments below from my letter dated March 29, 2018.

The proposed amendments to the visiting schedule rule effectively serve to reduce the opportunities for inmate visitation privileges for those institutions deemed to have a "modified visitation" schedule. The Department's published notice indicates that its visitation schedule is a "privilege" that is weighed against the Department's duties to ensure maintained security and safety of its institutions. Section 944.8031(1), Florida Statutes, sets forth that the Legislature finds that maintaining an

inmate's family and community relationships through enhancing visitor services and programs and *increasing the frequency* and quality of the visits is an underutilized correctional resource that can improve an inmate's behavior in the correctional facility and, upon an inmate's release from a correctional facility, will help to reduce recidivism. Emphasis added. Please advise as to how the reduction of visitation privileges comports with section 944.8031(1), Florida Statutes.

Additionally, if the Department has identified any deficiencies or barriers to its effective and efficient operation of the visitation program, section 944.8031(3) directs that "the secretary *shall* submit annual budget requests identifying capital improvements, staffing, and programmatic needs necessary to improve the quality and *frequency* of family visits and the visitation program and services." Emphases added. As the Department's notice and its statement of facts and circumstances justifying the rule indicate, issues related to staffing, security, and safety were known and preceded these noticed amendments reducing inmate visitation schedules. Please advise as to the Department's compliance with section 944.8031(3), Florida Statutes, and provide the Committee with any relevant materials related to this response.

**33-601.722(1)(a)-(f):** The Department has set forth criteria it will consider in the establishment of a facility's visitation schedule in these paragraphs. The Department has not set forth how these criteria will be weighed (e.g. do all criteria factor equally?) or any specifics as to what aspects of the stated criteria will influence the Department's analysis for establishing the visiting schedule (e.g. the number of visitors is listed but it is unclear whether this is historical numbers, current numbers, whether large numbers influence towards standard or modified visitation, etc.). Pursuant to section 120.52(8)(d), Florida Statutes, a rule that is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency is an invalid exercise of delegated legislative authority. Please review and advise.

Additionally, as cited above, section 944.8031, sets forth the stated legislative intent regarding visitation. Please advise why this intent is not considered to be a stated criteria in the establishment of a visitation schedule by the Department.

**33-601.722(1)(d):** Please advise as to the remaining comment below from my letter dated April 3, 2017.

Please describe how parking lot capacity justifies the reduction of visitation privileges inherent with the amendments to this rule. *See* §944.8031(1), Fla. Stat. (2017).

Mr. Gregory L. Hill

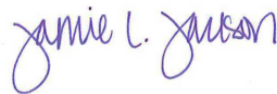
June 1, 2018

Page 3

- 33-601.722(2):** Will the Department's notification of visitation schedule set forth the criteria analysis in reaching its conclusion? Does the Department anticipate providing a point of entry via this notification for the purposes of those substantially affected by its agency action? Please review and advise.
- 33-601.722(2)(a):** The internal reference citation should be to subsections (6) and (7) in lieu of paragraphs.
- 33-601.722(2)(b)3.:** The internal reference citation should be to subsections (6) and (7) in lieu of paragraphs.
- 33-601.722(5)(i), (j):** The internal reference citation should be to paragraphs (5)(a)-(h) in lieu of subparagraphs (a)-(h).
- 33-601.722(8):** Has the Department set forth a review schedule for the determination of the facilities' visitation schedules absent external notification of a change in circumstances? Furthermore, has the Department set forth a period in which review must be accomplished for institutions where a change in circumstances has occurred? *See* § 120.52(8)(d), Fla. Stat. (2017). Please review and advise.
- 33-601.722(8)(a), (b):** The internal reference citation should be to subsection (1) in lieu of paragraph (1).

If you have questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,



Jamie L. Jackson  
Chief Attorney