

**NOTICE OF PROPOSED ACTION
AMENDMENT OF REGULATIONS OF THE
BOARD OF STATE AND COMMUNITY CORRECTIONS**

**MINIMUM STANDARDS FOR LOCAL DETENTION FACILITIES
TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 4**

Pursuant to the authority granted by Penal Code 6030, the Board of State and Community Corrections (BSCC) hereby gives notice of the proposed regulatory action(s) described in this public notice. It is the intent of the BSCC to amend regulations contained in Title 15, Division 1, Chapter 1, Subchapter 4, California Code of Regulations (known as the Minimum Standards for Local Detention Facilities), after considering all comments, objections, and recommendations regarding these regulations.

PUBLIC HEARING

The BSCC has not yet scheduled a public hearing on this proposed action. However, the BSCC 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

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the BSCC. The written comment period closes at **5:00 pm on December 18, 2017**. The BSCC will consider only comments received at BSCC offices by that time. Submit comments to:

Ginger Wolfe, Associate Governmental Program Analyst
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
(916) 445-5073
ginger.wolfe@bscc.ca.gov

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the BSCC may adopt the proposed regulations substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the BSCC adopts, amends, or repeals the regulation(s). The BSCC will accept written comments on the modified regulation text during the 15-day period. Comments should be addressed to the above-noted staff member.

NOTE: To be notified of any modifications, you must submit written/oral comments at the public hearing, if a hearing is held; submit comments to the office during the written public comment period; or specifically request to be notified of any modifications.

AUTHORITY AND REFERENCE

Penal Code Section 6030 authorizes the BSCC to establish and revise the proposed regulations, which would implement, interpret, or make specific Section 6030 of the Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

Section 6030 of the California Penal Code authorizes the BSCC to establish standards for local adult and juvenile detention facilities. The standards shall include but not be limited to the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities and personnel training. Section 6030 requires the BSCC to review such standards biennially and make any appropriate revisions.

Summary of Existing Regulations

Existing standards which prescribe requirements for local detention facilities are promulgated by the BSCC. These regulations are contained in Title 15 – Crime Prevention and Corrections, Division 1, Chapter 1, Subchapter 4 of the California Code of Regulations (CCR).

Determination of Inconsistency/Incompatibility with Existing State Regulations

The BSCC has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, BSCC has concluded that these are the only regulations that address minimum standards for Local Detention Facilities.

Summary of Effect

The proposed action will update Title 15, Division 1, Chapter 1, Subchapter 4 CCR by adopting requirements that align with the federal Prison Rape Elimination Act (PREA). The proposed changes will add requirements to the regulations that pertain to sexual assault and harassment, zero tolerance, methods of reporting sexual abuse and harassment, data collection and inmate records, classification of those at risk of sexual victimization, and provision of health care for inmates reporting victimization by sexual assault or abuse.

Comparable Federal Statute or Regulations

The federal Prison Rape Elimination Act (PREA)(28 Code of Federal Regulations Part 115) is a comparable national standard on the prevention, detection, and response to sexual abuse and assault. The BSCC developed a workgroup of subject matter experts who reviewed PREA requirements for applicability with State regulation.

Policy Statement Overview

This rulemaking action is in direct response to the requirements of the federal PREA as they pertain the local detention facilities. This rulemaking action clarifies and makes

specific the state requirements for local detention facilities to have plans, policies, and procedures for the prevention, detection, and response to sexual assault and abuse.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The BSCC has determined that there will be a positive impact on the health and welfare of California residents, incarcerated persons, and worker's safety. The welfare of California residents, incarcerated persons and worker safety will be affected positively by requiring local detention facilities to develop policy and procedure on the prevention, detection, and response of sexual abuse and assault. Facility operations, and the overall safety of facility staff, incarcerated persons, and visitors may also be positively affected by these proposed regulations due to increased methods of reporting and detection.

The BSCC has determined that the state's environment will not be affected by the adoption of these regulations because the regulation pertains to the minimum standards for local detention facilities which do not address any factors which would cause a positive or negative effect on the environment.

DISCLOSURE REGARDING THE PROPOSED ACTION

The BSCC has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None

Other nondiscretionary costs or savings imposed on local agencies: None

Costs or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The BSCC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Adoption of these regulations will not:

- (1) Create jobs or eliminate jobs within California.
- (2) Create new businesses or eliminate existing businesses within California.

- (3) Affect the expansion of businesses currently doing business within California.

Adoption of these regulations will:

- (1) Affect the welfare of California residents, incarcerated persons, and worker safety.

The welfare of California residents, incarcerated persons, and worker safety will be affected positively by the proposed regulations on the prevention, detection, and response to sexual assault and abuse.

Significant effect on housing costs: None

Business Report Determination: None

Small Business Determination: The BSCC has concluded that the implementation of this action will not affect small business as these regulations only apply to local detention facilities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the BSCC 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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The BSCC invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

AVAILABILITY OF RULEMAKING DOCUMENTS

The Rulemaking File, which includes all the information on which this proposal is based, is available for viewing at the BSCC's office at the above address and may also be accessed through the BSCC's website at <http://www.bscc.ca.gov>.

AVAILABILITY OF MODIFIED TEXT

If the BSCC makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the BSCC adopts the regulations as revised. The modified text may be accessed through the BSCC website at: <http://www.bscc.ca.gov>.

Those persons who do not have access to the Internet may submit a written request to Ginger Wolfe at the above address.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND FINAL STATEMENT OF REASONS

The Initial and Final Statement of Reasons may be accessed through the BSCC website at: <http://www.bscc.ca.gov>. Those persons who do not have access to the Internet may submit a written request to Ginger Wolfe at the above address.

AVAILABILITY OF DOCUMENTS; INTERNET ACCESS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in strikeout and underline can be accessed through our website at: <http://www.bscc.ca.gov>. Those persons who do not have access to the Internet may submit a written request to Ginger Wolfe at the above address.

CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS

Inquiries concerning the proposed action may be directed to:

Ginger Wolfe, Associate Governmental Program Analyst
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
Phone: (916) 445-5073
ginger.wolfe@bscc.ca.gov
Fax: (916) 327-3317

The backup contact person for these inquiries is:

Allison Ganter, Deputy Director
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
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