

**BOARD OF STATE AND COMMUNITY CORRECTIONS
TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 4
MINIMUM STANDARDS FOR LOCAL DETENTION FACILITIES**

**NOTICE OF PROPOSED ACTION AND
AMENDMENT OF REGULATIONS**

Pursuant to the authority granted by Penal Code section 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 (CCR), which is commonly 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 their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the BSCC.

A written comment period has been established commencing on February 2, 2024, and closing on March 20, 2024. The BSCC will consider only comments received at BSCC offices by the closing date. Submit comments to:

Amanda Ferreira, Associate Governmental Program Analyst
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
Phone: (916) 324-2878
regulations@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. Any modifications made to the full text of the proposed modifications will be clearly indicated and made available to the public for at least 15 days prior to the date that 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 primary contact person as provided above.

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

This rulemaking action is a result of Senate Bill (SB) 519 (Chapter 306, Statutes of 2023), which establishes the Director of In-Custody Death Review (Director) within the BSCC and, beginning July 1, 2024, requires the Director to “review investigations of any death incident... occurring within a local detention facility.” Following these reviews, the Director shall “make specific and customized recommendations to the sheriff or administrator of the local detention facility who operates the local detention facility regarding those incidents, including changes to policies, procedures, and practices, facility upgrades, staffing considerations, the delivery of medical and behavioral health services within local detention facilities, and operational and capital funding requirements to address the director’s recommendations.” (Pen. Code, § 6034, subd. (b).)

Summary of Existing Laws and Effect of the Proposed Action

Penal Code section 6030 authorizes the BSCC to establish minimum standards for local detention facilities. The minimum standards include, but are not limited to, health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training. Penal Code section 6030 also requires the BSCC to review those standards biennially and make any appropriate revisions.

The proposed amendments to section 1046 of Title 15, Division 1, Chapter 1, Subchapter 4 of the CCR include additional in-custody death review and reporting requirements that will become effective July 1, 2024, in accordance with the provisions of Penal Code sections 832.10 and 6034. The proposed revisions will update existing requirements to reflect the facility administrator’s obligation to develop written policy and procedures that comply with in-custody death reporting requirements of Government Code section 12525, submitting a copy of the report filed pursuant to section 12525 to the BSCC, content requirements for the initial in-custody death review report, and making reports accessible by the public.

Determination of Inconsistency/Incompatibility with Existing State Regulations

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

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Anticipated Benefits of the Proposed Regulation

The anticipated benefits from the proposed regulation amendments include the expansion of facility policies and procedures on in-custody death, improved investigative accountability and transparency in reporting, and the necessary data and reporting to support the enhanced mission of the BSCC to review, inspect, and promote legal and safe conditions in local detention facilities. Additional benefits of the amended regulations are the advancement of minimum standards for local detention facilities that improve the overall safety, security, and welfare of incarcerated people and staff in local detention facilities.

The BSCC has determined that the state's environment will not be affected by the adoption of these regulations because the regulations pertain to the minimum standards for local detention facilities. Requirements of these regulations do not address any factors that 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: No.

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

The BSCC concludes that it is unlikely that these regulations will (1) create new businesses or eliminate existing businesses within California, (2) create jobs or eliminate jobs within California, (3) affect the expansion of businesses currently doing business within California; and (4) affect worker safety or the state's environment. The BSCC concludes that it is likely that these regulations will benefit the health and welfare of California residents, specifically, the health and welfare of juveniles and adults in local

detention facilities in a positive manner with the support of consistent review and reporting of in-custody deaths by local detention facilities.

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 businesses 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 during the written comment period or public hearing if one is requested.

AVAILABILITY OF RULEMAKING DOCUMENTS

The Rulemaking File, which includes all the information on which this proposal is based, is available for viewing by request at the BSCC's office 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 clearly indicate the changes and make the modified text 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 the contact persons listed below.

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 the contact persons listed below.

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 the contact persons listed below.

CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS

Inquiries concerning the proposed action may be directed to the primary contact person:

Amanda Ferreira, Associate Governmental Program Analyst
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
Phone: (916) 324-2878
regulations@bscc.ca.gov
Fax: (916) 322-2461

The auxiliary contact person is:

Lindsay Tu, Staff Services Manager I
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
Phone: (916) 214-7009
regulations@bscc.ca.gov
Fax: (916) 322-2461