

DATE: September 8, 2022 **AGENDA ITEM:** C

TO: BSCC Chair and Members

FROM: Allison Ganter, Deputy Director, allison.ganter@bscc.ca.gov

SUBJECT: Adult Title 15 Regulations: Final Approval of Proposed Regulations for Submission to Office of Administrative Law: **Requesting Approval**

Summary

The Board approved proposed changes to the Title 15 Regulations for Adult Local Detention Facilities (Cal. Code Regs., tit. 15, §§ 1000-1280) on November 18, 2021, and directed staff to begin the rulemaking process for adoption and implementation. On March 4, 2022, BSCC staff initiated the first step in rulemaking, as prescribed by the Office of Administrative Law, with a Notice of Proposed Action published in the California Regulatory Notice Register. After reviewing comments, BSCC staff determined that statutory updates and further modifications of the proposed regulations were necessary; the modified text was published for a 15-day public comment period on June 29, 2022. If these minor, technical changes are approved by the Board, it is anticipated that the Title 15 regulations will become effective on January 1, 2023.

A detailed timeline of the ESC process and all available material is located at: <https://www.bscc.ca.gov/adult-titles-15-and-24-regulations-revision/>

Background

The Board is required to review minimum standards for local detention facilities biennially and make appropriate revisions pursuant to Penal Code section 6030, subdivision (a).

At its April 11, 2019, meeting, the Board directed staff to begin the adult Titles 15 and 24 regulations review and revision process. BSCC staff convened the first Executive Steering Committee (ESC) meeting on December 2, 2019, to consider and identify areas for regulations revision and establish subject-matter workgroups to begin the drafting process. Workgroup meetings were held between March 2020 and January 2021.

Following workgroup meetings, BSCC staff developed initial proposed revisions to the regulations and requested public feedback. BSCC staff also held a public Zoom meeting on May 19, 2021, to provide an overview of the regulations revision process and review how the community could participate.

The ESC reconvened on May 25, 2021, to review the initial proposed revisions. During this meeting, there were many requests for an additional public review and comment period. The BSCC accommodated those requests by establishing a process, including a web-based

survey, for community members to provide additional feedback on the initial proposed revisions through July 31, 2021.

The ESC met again on August 31 and September 30, 2021, to review feedback received, review initial proposed revisions, ensure that regulations were aligned with national best practices, and direct BSCC staff to make modifications to the final proposed revisions based on community feedback and ESC discussion.

At its November 18, 2021 board meeting, the Board approved proposed changes to the Title 15 Regulations for Adult Local Detention Facilities. On March 4, 2022, BSCC published the Notice of Proposed Action to officially commence the 45-day public comment period and express intent to adopt proposed regulations; a public hearing occurred on May 2, 2022, via Zoom. However, additional modifications to the text of the proposed regulations were necessary to correct editorial issues and ensure consistency with new statutory language that amended Government Code section 7286.5 to prohibit carotid restraint or choke hold by law enforcement. The modified text of the proposed regulations was published for a 15-day public comment period from June 29, 2022, to July 15, 2022.

To review, highlights of the original regulation revisions made by the ESC and approved by the Board include:

- Replacing outdated and inappropriate terminology with gender-inclusive and people centered language, such as “person” rather than “inmate.”
- Prohibiting the use of carotid holds and the disciplinary diet.
- Expanding requirements for safety checks to ensure that they are random and varied, that a supervisor conducts a documented review of completed safety checks and recognizes more frequent safety checks for high-risk situations.
- Aligning suicide prevention requirements with best practices, including that facility policy and procedures reflect best practices, that people receive suicide prevention screening in special circumstances, such as a return from court, follow-up after a suicide attempt, and ensuring the least restrictive housing placement for people who may be experiencing suicidal ideation.
- Updating regulations for high-risk regulations such as safety cell and restraints to include best practices and a recognition that the least-restrictive methods should be used for people being placed in these situations.
- Defining “out of cell time” and increasing the amount of time people must spend outside their cells from three (3) hours over a period of seven (7) days to ten (10) hours and specifying that some of this time must be used for exercise.
- Requiring facilities to provide appropriate telecommunications devices for people with hearing or speech impairment.
- Changes relevant to clothing and bedding that emphasizes the responsibility to provide clothing and mattresses that are clean, free of stains, holes, and tears.

Recommendation/Action Needed

1. Approve the modifications to text of proposed regulations in Attachment C-1
2. Approve the final rulemaking package
3. Direct staff to submit the final rulemaking package to the Office of Administrative Law including the modified text of the proposed regulations, final proposed regulations, final statement of reasons, and any other final rulemaking documents required by the Administrative Procedures Act.

Attachments

- C-1: Modified Text of the Proposed Regulations
- C-2: Final Proposed Adult Title 15 Regulations Revisions
- C-3: Adult Title 15 Final Statement of Reasons