

**DATE:** November 9, 2017 **AGENDA ITEM:** D

**TO:** BSCC Chair and Members

**FROM:** Allison Ganter, Deputy Director, [allison.ganter@bscc.ca.gov](mailto:allison.ganter@bscc.ca.gov)

**SUBJECT:** Adult Title 15 Section 1062, Visiting — Amendments to Conform with Assembly Bill 103 (Chapter 17, Statutes of 2017) Final Approval for Filing with Office of Administrative Law: **Requesting Approval**

---

### Summary

Pursuant to Penal Code Section 6030, the Board of State and Community Corrections is required to biennially review, and revise if necessary, the Minimum Standards for Local Detention Facilities. At its February 2017 meeting the Board approved draft regulations for visiting in local detention facilities. At its June 2017 meeting the Board approved submittal of those regulations to the Office of Administrative Law. On June 27, the Governor signed Assembly Bill 103 (Chapter 17, Statutes of 2017), which created new requirements for facility visitation.

BSCC staff has incorporated those changes into the proposed draft regulations and has conducted an additional 15-day public comment period. BSCC staff is requesting approval of the final proposed regulations for visiting in local detention facilities and approval to proceed with the Administrative Procedure Act (APA) process for regulation adoption.

### Background

The Board is required to establish minimum standards for local correctional facilities. (Pen. Code, § 6030.) In 2017, the BSCC approved revisions to Section 1062, Visiting and conducted a 45-day public comment period in accordance with the Administrative Procedures Act (APA).

On June 27, 2017 the Governor signed Assembly Bill (AB) 103 (Chapter 17, Stats. 2017), which became effective immediately. AB 103 provides specific direction to local detention facilities and to the BSCC relative to modes of visitation. This legislation required the BSCC to revise the previously approved proposed language in Title 15, Section 1062, Visiting to comport with the new statute.

The Board approved proposed revisions in Attachment D-1 during the September 2017 meeting. Additions to the originally proposed language are highlighted in yellow and deletions are highlighted in gray. Changes to the originally revised language include:

- Defining video visitation to mirror the definition outlined in Penal Code Section 4032: “Video visitation” means interaction between an inmate and a member of the public through the means of an audio-visual communication device when the member of the public is located at a local detention facility or at a remote location.

- Defining “onsite” as being the facility in which the inmate is housed.
- Excluding facilities that provided video-only visitation prior to January 1, 2017 from the requirements of subdivision (d). This exclusion previously applied to facilities that were providing video-only prior to February 16, 2017, the date the BSCC proposed to adopt the revised regulation.
- Requiring that the first hour of remote visitation per week is free of charge in those facilities providing video-only visitation prior to January 1, 2017.

Because these changes were proposed after the original 45-day public comment period, BSCC staff were required to provide notice of revision to the public and allow for an additional 15-day public comment period. (Gov. Code, § 11346.8.) This public comment period was held from September 29 and October 14, 2017; comments received are contained in Attachment D-2.

As explained in the Final Statement of Reasons (Attachment D-3), staff is not proposing any additional modifications to the text approved by the Board on September 14, 2017. The comments and BSCC response included in the Final Statement of Reasons will be submitted to the Office of Administrative Law.

BSCC staff is requesting that the Board approve the final proposed regulations and direct staff to proceed with final rulemaking activities, with an anticipated effective date of April 1, 2017 for these regulations.

### **Recommendation/Action Needed**

---

Staff recommends:

1. The Board approve the final language for the minimum standards for visiting in local detention period.
2. The Board direct staff to proceed with rulemaking activities pursuant to the APA.

### **Attachments**

---

- D-1: Adult Titles 15, Proposed Revisions in Strike Out and Underline
- D-2: Public Comments received
- D-3: Adult Titles 15 Final Statement of Reasons