

DATE: September 14, 2017 **AGENDA ITEM:** J

TO: BSCC Chair and Members

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

SUBJECT: Adult Title 15 Section 1062, Visiting — Amendments to Conform with Assembly Bill 103 (Chapter 17, Statutes of 2017): **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 are requesting Board approval of them. Staff also asks for permission to begin a 15-day public comment period to comply 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.) Following a biennial review of minimum standards, and after collaborating with stakeholders, the BSCC drafted language to ensure that regulations for visiting would ensure access to in-person visiting.

The BSCC approved revisions to Section 1062, Visiting and proceeded through the rulemaking process as outlined in the APA. Following the requisite 45-day public comment period, Assembly Bill 103 was signed into law. AB 103 provides specific direction to local detention facilities and to the BSCC relative to modes of visitation. This legislation requires the BSCC to revise the previously approved proposed language in Title 15, Section 1062, Visiting to comport with the new statute.

BSCC staff have proposed revisions in Attachment J-1. Additions to the originally proposed language is 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 Pen. Code, § 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.
- 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 changes are being made following a 45-day public comment period, BSCC staff must provide notice of revision to the public and allow for an additional 15-day public comment period.

Upon Board approval, BSCC staff will begin a 15-day public comment period for the modifications.

Recommendation/Action Needed

Staff recommends:

1. The Board approve the proposed revised language for the minimum standards for visiting in local detention facilities.
2. The Board direct staff to proceed with 15-day public comment period for modifications pursuant to the APA. (Gov. Code, § 11346.8, subd. (c).)

Attachments

J-1: Proposed Amendments to Titles 15/24 Regulations