

CORRECTIONS DEPARTMENT[201]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 904.108, the Iowa Department of Corrections hereby gives Notice of Intended Action to amend Chapter 20, "Institutions and Administration," Iowa Administrative Code.

The Department proposes these amendments to reflect changes in the Department's policy numbers as well as to add, delete, and modify definitions and language used throughout the chapter. The amendments add an additional means for sending money to an offender's account and update the name of the fund account. The amendment in Item 4 clarifies how confidential mail is to be handled. The amendments to rule 201—20.6(904) clarify the types of publications included in the term "publications," how publications will be handled, and the authorized reasons for denying a publication. Rule 201—20.10(904), which pertains to incarceration fees, is being rescinded. Incarceration fees are addressed in the Department's internal policies. The amendments also replace the word "inmate" with the word "offender" to be consistent throughout the chapter.

Any interested person may make written comments on the proposed amendments on or before October 14, 2008. Written comments may be sent to Michael Savala, Iowa Department of Corrections, 510 E. 12th Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to Michael.Savala@iowa.gov or via facsimile to (515)725-5799.

A public hearing will be held at the office of the Iowa Department of Corrections from 11 a.m. to 1 p.m. on October 14, 2008. The Department is located at 510 E. 12th Street, Des Moines, Iowa. At the hearing, individuals will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any individuals who will attend the public hearing and need special accommodations, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code section 904.108.

The following amendments are proposed.

ITEM 1. Amend rule **201—20.2(904)**, "Class I Disciplinary Report" "Class II Disciplinary Report" "Contraband" as follows:

"*Class I Disciplinary Report*" means the same as a major report and is defined in department policy ~~IN-V-36~~ IO-RD-01.

"*Class II Disciplinary Report*" means the same as a minor report and is defined in department policy ~~IN-V-36~~ IO-RD-01.

"*Contraband*" means weapons; alcohol; drugs; money; obscene materials; or materials advocating disruption of or injury to offenders, employees, programs, or physical facilities. ~~It~~ "Contraband" shall also include anything which is illegal to possess under federal or state law; anything which is against institutional regulations; drugs or alcohol or materials which are used in the production or use of drugs or alcohol or weapons, explosives, or potential weapons and explosives; and altered authorized property. The term also includes possession or use of any prohibited communication device.

ITEM 2. Amend subrule 20.3(16) as follows:

20.3(16) *Money orders, ~~and~~ cashier's checks, and electronic funds transfers.* Money orders and cashier's checks for deposit in the offender's account must be made payable to the Iowa Department of Corrections ~~Central Bank~~ Offender Fiduciary Account (IDOC OFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's

name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. Personal checks and cash will not be accepted. ~~Suspected~~ An offender's suspected abuse of requests for money requests from the public by an offender may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

ITEM 3. Strike the word "inmate" and its plural and possessive forms and insert the word "offender" and its plural and possessive forms in lieu thereof in rule **201—20.4(904)**.

ITEM 4. Amend paragraph **20.4(2)“b”** as follows:

b. Confidential mail will be delivered unopened and then, in the presence of the offender, will be opened and inspected for contraband and to ensure that the contents are from the return addressee, ~~only in the presence of the inmate.~~

Confidential mail may be read only after a finding of probable cause by a court of competent jurisdiction that a threat to the order and security of the institution or abuse of correspondence exists.

ITEM 5. Amend paragraph **20.4(3)“g”** as follows:

g. ~~Inmates/offenders~~ Offenders under correctional supervision or detention will not be allowed to correspond with other ~~inmates/offenders~~ offenders unless the individuals are immediate family and approved by the authority of the institution or both authorities in the case of correspondence between facilities.

~~“Immediate family” means mother, father, sister, brother, half sister, half brother, spouse, son, daughter, natural grandparents, and natural grandchildren. Legal guardian, foster parents, stepparents, stepchildren, stepsister, and stepbrother will be included provided a positive relationship exists or contact will confer a benefit to the inmate.~~

ITEM 6. Amend paragraph **20.4(3)“v”** as follows:

v. An individual may deposit funds in an ~~inmate's~~ offender's account ~~by sending only bank drafts or money orders payable to (warden or superintendent's name) for (inmate's name). Identification of the sender and a cover letter shall accompany the bank draft or money order. These funds may be enclosed with a letter to the inmate but shall not be enclosed with a package.~~ by money order, cashier's check, or electronic funds transfer. Personal checks and cash will not be accepted. Only money orders and cashier's checks will be accepted for deposit into an offender's account by mail. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections Offender Fiduciary Account (IDOC OFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. An offender's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

ITEM 7. Amend rule 201—20.5(904) as follows:

201—20.5(904) Money orders, ~~and~~ cashier's checks, and electronic funds transfers for offenders. Only money orders and cashier's checks only will be accepted for deposit into an offender's account by mail. Personal checks and cash will not be accepted. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections ~~Central Bank~~ Offender Fiduciary Account (IDOC OFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's name and ID number and the sender's name and complete address. ~~Personal checks and cash will not be accepted.~~ Funds will also be accepted via electronic funds transfers from authorized vendors. ~~Suspected~~ An offender's suspected abuse of requests for money requests from the public by an offender may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

ITEM 8. Amend rule 201—20.6(904) as follows:

201—20.6(904) Publications.

20.6(1) The institution shall allow ~~inmates~~ offenders access to publications when doing so is consistent with institutional goals of maintaining internal order, safety, security, and rehabilitation.

~~20.6(1)~~ **20.6(2)** Publications include ~~periodicals, newspapers, books, and other printed matter~~ any periodical, newspaper, book, pamphlet, magazine, newsletter, or similar material published by any individual, organization, company, or corporation, and made available for a commercial purpose. All publications shall be unused and sent directly from ~~a reputable publishing firm~~ an approved publisher or bookstore which does mail order business. Any exceptions must be authorized by the warden or superintendent. No publication will be denied ~~approval~~ solely on the basis of its appeal to a particular ethnic, racial, religious, or political group. The quantity of printed materials, as with other personal property, will be controlled for safety and security reasons.

~~20.6(2)~~ **20.6(3)** All publications not on the approved list shall be reviewed by a publication review committee for approval, ~~or denial, or control of the publication~~.

a. The committee shall be appointed by the director or designee, department of corrections, and shall include a person with broad exposure to various publications, and two representatives of correctional ~~institutions~~ operations.

b. The committee shall fairly review all types of publications to be received by ~~inmates~~ offenders in accordance with these rules.

~~20.6(3)~~ **20.6(4)** The following procedures shall be used when ~~reviewing~~ a publication not on the approved list is reviewed:

a. The committee shall approve, ~~or deny, or control~~ publications within ~~45~~ 30 working days of receipt of the publication.

b. When a publication is denied or controlled, the committee shall send the offender a written notice ~~to the inmate~~, stating the publication involved, the reason for denial or control, and the ~~inmate's~~ offender's available appeal process.

c. The ~~inmate~~ offender shall have five days from receipt of the notice of denial or control to notify the designated institution staff to destroy the publication, to specify where to send the ~~material~~ publication at the ~~inmate's~~ offender's expense, or to notify the institution that the decision is being appealed.

d. A list of approved publications shall be maintained.

~~20.6(4)~~ **20.6(5)** A publication may be denied when the publication presents a danger to the security or order of an institution or is ~~detrimental to the~~ inconsistent with rehabilitation ~~of the inmate~~ goals. Authorized reasons for denying a publication are that the publication:

a. Is likely to be disruptive or produce violence.

b. Contains material which portrays or simulates a minor (any person 17 years of age or younger) engaged in or simulating any ~~of the following:~~ act that is sexual in nature.

(1) ~~An act which involves sexual contact between two or more persons by penetration of penis into the vagina or anus, by contact between the mouth and the genitalia or by contact between the genitalia of one person and the genitalia or anus of another person, or by the use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.~~

(2) ~~An act of bestiality involving a minor.~~

(3) ~~Fondling or touching the pubes or genitals of the minor.~~

(4) ~~Fondling or touching the pubes or genitals of a person by a minor.~~

(5) ~~Sadomasochistic abuse of a minor for the purpose of arousing or satisfying sexual desires of the person who may view a depiction of the abuse.~~

(6) ~~Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of the person who may view a portrayal of the abuse.~~

(7) ~~Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a portrayal of the nude minor.~~

c. Contains ~~material portraying bestiality, sadomasochism, or excretory functions or lewd exhibition of the genitals~~ hard-core pornography depicting patently offensive representations of oral,

anal, or vaginal intercourse, actual or simulated, involving humans, or depicting patently offensive representations of masturbation, excretory functions, or bestiality, or lewd exhibition of the genitals, which the average adult taking the material as a whole in applying statewide contemporary community standards would find appeals to the prurient interest; and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value as prohibited by Iowa Code section 728.4(2) 728.4.

d. to j. No change.

~~20.6(5)~~ **20.6(6)** Portrayal or simulation of fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse, male erection, bestiality, sadomasochism, excretory functions, lewd exhibition of genitals, or other sexually explicit materials will be denied to ~~those inmates offenders~~ when the material is ~~detrimental to the~~ inconsistent with rehabilitation ~~of an individual inmate, based on psychological/psychiatric recommendation goals.~~

~~20.6(6)~~ **20.6(7)** Publications which contain material portraying or simulating fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse or male erection and are not ~~prohibited by 20.6(4) "b," 20.6(4) "c," or 20.6(5) above~~ approved or denied by the review committee will be controlled for the security and order of the institution and to assist in enabling its control from those ~~inmates offenders~~ denied access by ~~20.6(5) 20.6(6) above.~~ Institutional procedures shall be established for the ~~inmate offender~~ to reserve time in a designated controlled area and obtain the ~~material controlled publication~~ for reading during specified times. The controlled publication will be secured until the ~~inmate offender~~ makes arrangements for further review of the ~~material controlled publication.~~ An ~~inmate offender~~ may have secured no more than ten publications at any given time, none of which are over three months old from publication date or receipt, and any that are in excess of the ten limit or over three months old must be sent out of the institution at the ~~inmate's offender's~~ expense, or destroyed, or taken with the ~~inmate offender~~ upon release.

~~20.6(7)~~ **20.6(8)** An ~~inmate offender~~ may appeal the committee's decision or the denial of a publication ~~for treatment reasons~~ because the publication is inconsistent with rehabilitation goals within ten days of receipt of the decision by filing a written objections appeal and sending it to the Director, Administrator, Division of Investigative Services, Department of Corrections, Capitol Annex Building, 523 510 East 12th Street, Des Moines, Iowa 50319. The ~~director's administrator's~~ decision shall be final.

ITEM 9. Amend subrule 20.7(1) as follows:

20.7(1) When ~~inmates offenders~~ are selected to be interviewed and photographed within the institution, either single individually or as part of a group, identifiable interviews or pictures shall have the written consent of the ~~inmate offender~~ involved as well as prior consent of the warden, superintendent, or designee.

ITEM 10. Amend subrule 20.8(2) as follows:

20.8(2) Persons under 18 years of age may only visit with prior approval of the warden, superintendent, or designee, and shall be accompanied by a responsible adult. An adult shall be in charge of no more than four children. Persons under 18 years of age shall not be allowed to make institutional visits to maximum security prisons.

ITEM 11. Amend subrule 20.8(4) as follows:

20.8(4) Guests shall be allowed personal contact with an ~~inmate offender~~ only when it serves the best interests of the ~~inmate offender~~ as determined by the warden, superintendent, or designee.

ITEM 12. Amend rule 201—20.9(904) as follows:

201—20.9(904) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the warden or superintendent. The warden or superintendent shall evaluate the donation in terms of the nature of the contribution to the institution program. The warden or superintendent is responsible for accepting the donation and reporting the gift to the ~~director, division of adult corrections~~ regional deputy director on a monthly basis.

ITEM 13. Rescind and reserve rule **201—20.10(904)**.

ITEM 14. Amend rule 201—20.11(904,910) as follows:

201—20.11(904,910) Restitution.

20.11(1) Every ~~inmate~~ offender required by a court order to pay restitution shall have a restitution plan and a restitution plan of payment developed, unless a court-ordered restitution plan has been completed.

20.11(2) The restitution plan of payment shall consider the present circumstances of an ~~inmate's~~ offender's physical/mental health and other legal financial obligations.

20.11(3) No change.

20.11(4) ~~The warden/superintendent or designee shall approve each restitution plan or modified plan and send a copy to the clerk of court.~~ Each offender shall be given a Predeprivation Notice: Notice of Intent to Deduct Restitution From All Account Credits and Notice of Opportunity to Respond during initial reception following admission to the Iowa medical and classification center (IMCC).

20.11(5) Initial ~~inmate~~ offender complaints regarding restitution plans of payment or modifications may be addressed via the ~~inmate~~ offender grievance procedure.

20.11(6) The staff shall explain the restitution plan ~~and plan~~ of payment to the ~~inmate~~ offender. Each ~~inmate~~ offender shall receive a copy of the restitution plan ~~and plan~~ of payment.

20.11(7) Restitution payments shall be deducted from all credits to an ~~inmate's~~ offender's account. Up to 50 percent may be deducted. The following are exempt for deductions from credits to an ~~inmate's~~ offender's account from an outside source:

a. An amount, assessed by the warden/superintendent or designee, specifically for medical costs. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed. If the medical procedures are not performed or carried out, the money shall be returned to the sender at the ~~inmate's~~ offender's expense.

b. to *g.* No change.

20.11(8) and **20.11(9)** No change.

20.11(10) A percent greater than that established in the restitution plan of payment may be deducted from a credit to an ~~inmate's~~ offender's account by authorization of either the ~~inmate~~ offender, the warden/superintendent or designee, or by court order.

20.11(11) No change.

This rule is intended to implement Iowa Code chapter 904 and sections 910.2, 910.3 and 910.5.

ITEM 15. Rescind rule 201—20.12(904) and adopt the following new rule in lieu thereof:

201—20.12(904) Furloughs.

20.12(1) Furloughs are a privilege, not a right, and may be denied or canceled at any time for reasons deemed sufficient by the warden/superintendent. Reasons for denial or cancellation shall be given to the offender.

20.12(2) Emergency family furlough shall be considered in the event of a death or imminent death in the immediate family.

20.12(3) Emergency medical furlough is for those offenders whose medical condition has deteriorated to the point of incapacitation or to a comatose state.

20.12(4) Both emergency family furloughs and emergency medical furloughs shall have approval of the warden/superintendent and the respective regional deputy director.

20.12(5) Furloughs are additionally governed by the provisions of the department's furlough policy IS-RL-04.

ITEM 16. Strike the word “inmate” and its plural and possessive forms and insert the word “offender” and its plural and possessive forms in lieu thereof in rules **201—20.13(904)201—20.15(910A)201—20.17(904)**.

ITEM 17. Amend paragraph **20.17(4)“c”** as follows:

c. ~~Inmates~~ Offenders must be furlough-eligible in accordance with furlough eligibility standards in DOC policy ~~IN-V-44 IS-RL-04~~ and administrative rule 20.12(904).

ITEM 18. Amend rule 201—20.18(904), as follows:

201—20.18(904) Violator/shock probation programs. The department of corrections provides violator/shock probation programs at three institutions: 30 beds for females at the Iowa correctional institution for women (ICIW) at Mitchellville, ~~80~~ 70 beds for males at the correctional release center (CRC) at Newton, and ~~up to 150 beds for male youthful offenders in the RIVERS program at the Fort Dodge correctional facility (FDCF)~~ 58 beds for males at Luster Heights (ASP) at Harpers Ferry. These programs provide up to a six-month intensive intervention for probation, parole, and work release offenders that have violated conditions of supervision and would otherwise have been returned to or sent to prison. Additionally, offenders sentenced to the custody of the department of corrections that have been identified as potential shock probation candidates are eligible for program participation.

ITEM 19. Rescind the “Redirecting inmate values, energy, relationships and skills (RIVERS)” in subrule **20.18(2)**.

ITEM 20. Amend paragraph **20.18(8)“e”** as follows:

e. Rule 20.5(904)—~~Money orders, cashier’s checks, and electronic funds transfers~~ for offenders. Money orders, cashier’s checks, and electronic funds transfers for offenders are allowed but will be subject to a restitution plan, child support orders, fines, court costs and fees.

ITEM 21. Amend paragraph **20.18(8)“k”** as follows:

k. Rule 20.12(904)—Furloughs. This rule will only apply in family emergency situations in accordance with ~~20.12(5)“a” and 20.12(6)“a,”~~ 20.12(2) although the criteria for eligibility are waived, and these furloughs will only be granted at the discretion of the warden/superintendent or designee with approval of the regional deputy director.