

DATE: June 8, 2017 **AGENDA ITEM:** J

TO: BSCC Chair and Members

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

SUBJECT: Minimum Standards for Visiting in Local Detention Facilities, Approval of Final Rulemaking Package and Submittal to Office of Administrative Law:
Requesting Approval

Summary

Pursuant to Penal Code Section 6030, the Board of State and Community Corrections (BSCC) is required to biennially review, and revise if necessary, the Minimum Standards for Local Detention Facilities. The BSCC Board approved draft regulations for visiting in local detention facilities at its February 2017 meeting.

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.) During its biennial review, the Board received public comment criticizing proposed changes to Section 1062 of Title 15, Visiting. Concerns were also raised overall about the construction of local detention facilities without in-person visitation space. In addition, Senator Holly Mitchell introduced Senate Bill (SB) 1157, which sought to require local county jails to provide in-person visiting at all locations by January 1, 2022. At the June 2016 Board Meeting, the Board elected not to move forward on any changes to the visitation regulations, pending the outcome of SB 1157.

In September 2016, Governor Brown vetoed SB 1157. In his veto message, the Governor stated:

This bill as drafted does not provide adequate flexibility and creates a strict mandate. Nevertheless, I am concerned about the recent trend of making jail facilities unavailable for in-person visits. This practice could have an adverse impact on achieving rehabilitative goals and might affect in a negative way the families and loved ones of those incarcerated. I am directing the Board of State and Community Corrections to work with stakeholders to explore ways to address these issues.

In November and December 2016 the BSCC met with stakeholders, including six of the sponsoring organizations of SB 1157, the California State Sheriffs' Association, the California State Association of Counties, the Urban Counties Caucus, and others to discuss the issues and identify possible options.

The BSCC drafted proposed language based upon meetings with stakeholders; this language was presented to the BSCC Board at the February 2017 meeting. The Board approved the proposed regulation text and directed staff to begin actions in accordance with the Administrative Procedures Act (APA). As such, a 45-day public comment period was held from March 10, 2017 through April 24, 2017.

Two public hearings were held to supplement the public comment period; the first was held April 19, 2017 in Sacramento, and the second on May 2, 2017 in Ontario. Several comments were received during the public comment period. However, as explained in the Final Statement of Reasons (Attachment J-3), staff is not proposing any additional modifications to the text approved by the Board on February 17, 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 October 1, 2017 for these regulations.

Recommendation/Action Needed

Staff recommends:

1. The Board approve the final rulemaking package 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

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