

**BOARD OF STATE AND COMMUNITY CORRECTIONS
MINIMUM STANDARDS FOR LOCAL DETENTION FACILITIES
TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 4**

**NOTICE OF PROPOSED ACTION AND
AMENDMENT OF REGULATIONS**

Pursuant to the authority granted by Penal Code section 6030, the Board of State and Community Corrections (BSCC) hereby gives notice of the proposed regulatory action(s) described in this public notice. It is the intent of the BSCC to amend regulations contained in Title 15, Division 1, Chapter 1, Subchapter 4, California Code of Regulations, which is commonly known as the Minimum Standards for Local Detention Facilities, after considering all comments, objections, and recommendations regarding these regulations.

PUBLIC HEARING

Any interested person may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held on May 2, 2022, from 4:00 p.m. to 6:00 p.m. via Zoom:

To participate via Computer/Tablet/Smartphone:

<https://us02web.zoom.us/j/83908927055?pwd=ckQxN2oxdHFEbStkbEdlcEtpUDBKZz09>

If joining using the link above

Meeting ID: 839 0892 7055

Passcode: 755078

If joining by phone

Dial by your location

+1 669 900 9128 US (San Jose)

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+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

Meeting ID: 839 0892 7055

Passcode: 755078

Questions regarding the May 2, 2022 Public Hearing may be directed to regulations@bscc.ca.gov.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the BSCC.

A written comment period has been established commencing on March 4, 2022 and closing on April 18, 2022. The BSCC will consider only comments received at BSCC offices by the closing date. Submit comments to:

Lindsay Tu, Staff Services Manager I
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
Phone: (916) 214-7009
regulations@bscc.ca.gov

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the BSCC may adopt the proposed regulations substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. Any modifications made to the full text of the proposed modifications will be clearly indicated and made available to the public for at least 15 days prior to the date that the BSCC adopts, amends, or repeals the regulation(s). The BSCC will accept written comments on the modified regulation text during the 15-day period. Comments should be addressed to the primary contact person as provide above.

NOTE: To be notified of any modifications, you must submit written/oral comments at the public hearing, if a hearing is held; submit comments to the office during the written public comment period; or specifically request to be notified of any modifications.

AUTHORITY AND REFERENCE

Penal Code section 6030 authorizes the BSCC to establish and revise the proposed regulations, which would implement, interpret, or make specific Section 6030 of the Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

Penal Code section 6030 authorizes the BSCC to establish minimum standards for local detention facilities. The minimum standards include but are not limited to, health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities and personnel training. Penal Code section 6030 also requires the BSCC to review those standards biennially and make any appropriate revisions.

Summary of Existing Regulations

The BSCC promulgates the existing standards which prescribe requirements for local detention facilities. These existing standards are codified in Title 15 Crime Prevention and Corrections, Division 1, Chapter 1, Subchapter 4 of the California Code of Regulations (CCR).

Determination of Inconsistency/Incompatibility with Existing State Regulations

The BSCC has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the BSCC has concluded that these are the only regulations that address minimum standards for local detention facilities.

Summary of Effect

The proposed action will update Title 15, Division 1, Chapter 1, Subchapter 4 CCR by amending and adopting new definitions and requirements that align with Title 15, Division 1, Chapter 1, Subchapter 4 CCR. Among other various updates, the proposed revisions will update existing definitions and requirements to reflect current best practices, update outdated and inappropriate terminology, prohibit the use of carotid restraints (pursuant to Government Code section 7286.5), promote least-restrictive methods of restraints, expand safety check requirements, align suicide prevention requirements with best practices, define and expand the amount of hour dedicated to “out of cell time,” and emphasize the responsibility to provide clothing and mattresses that are clean, free of stains, holes and tears. The proposed revisions will also repeal an outdated section by eliminating Section 1247 “Disciplinary Separation Diet” from Title 15.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

This rulemaking action is a result of the requirements in Penal Code 6030 for the BSCC to review the standards biennially and make any appropriate revisions. In addition, this rulemaking action is also a response to the recent controversial debates related to conditions of confinement, use of force and restraint. The broad objective of the proposed action is to update the regulatory requirements for local detention facilities in alignment with more appropriate and humane, best practices, and to ensure the safety and security of incarcerated persons and facility staff.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

The BSCC has determined that there will be a positive impact on the health and welfare of juveniles and adults in local detention facilities, and the proposed revisions will ensure alignment with the intent of rehabilitation and an improved experience of incarceration; more clarity and consistency of the language throughout the regulations; significant improvement to the health and welfare of incarcerated persons in local detention facilities, and increased overall safety for facility staff, incarcerated persons and visitors at each facility by implementing more enhanced health and safety requirements more in line with best practices.

The BSCC has determined that the state’s environment will not be affected by the adoption of these regulations because the regulations pertain to the minimum standards for local detention facilities. Requirements of these regulations do not address any factors that would cause a positive or negative effect on the environment.

DISCLOSURE REGARDING THE PROPOSED ACTION

The BSCC has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other nondiscretionary costs or savings imposed on local agencies: None

Costs or savings in federal funding to the state: None

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The BSCC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Adoption of these regulations will not:

- (1) Create jobs or eliminate jobs within California.
- (2) Create new businesses or eliminate existing businesses within California.
- (3) Affect the expansion of businesses currently doing business within California.

Adoption of these regulations will:

- (1) Affect the health and welfare of juveniles and adults in local detention facilities in a positive manner
- (2) Ensure consistency in the treatment of juveniles and adults in local detention facilities
- (3) Improve living conditions of juveniles and adults in local detention facilities

The welfare of juveniles and adults in local detention facilities will be affected positively by the proposed revisions which intend to ensure consistency with best practices.

Significant effect on housing costs: None

Business Report Determination: None

Small Business Determination: The BSCC has concluded that the implementation of this action will not affect small business as these regulations only apply to local detention facilities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the BSCC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The BSCC invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or public hearing, if one is requested.

AVAILABILITY OF RULEMAKING DOCUMENTS

The Rulemaking File, which includes all the information on which this proposal is based, is available for viewing by request at the BSCC's office at the above address and may also be accessed through the BSCC's website at <http://www.bscc.ca.gov>.

AVAILABILITY OF MODIFIED TEXT

If the BSCC makes modifications that are sufficiently related to the originally proposed text, it will clearly indicate the changes and make the modified text available to the public for at least 15 days before the BSCC adopts the regulations as revised. The modified text may be accessed through the BSCC website at: <http://www.bscc.ca.gov>. Those persons who do not have access to the Internet may submit a written request to the contact persons listed below.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND FINAL STATEMENT OF REASONS

The Initial and Final Statement of Reasons may be accessed through the BSCC website at: <http://www.bscc.ca.gov>. Those persons who do not have access to the Internet may submit a written request to the contact persons listed below.

AVAILABILITY OF DOCUMENTS; INTERNET ACCESS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in ~~strikeout~~ and underline can be accessed through our website at: <http://www.bscc.ca.gov>. Those persons who do not have access to the Internet may submit a written request to the contact persons listed below.

CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS

Inquiries concerning the proposed action may be directed to the primary contact person:

Lindsay Tu, Staff Services Manager I
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
Phone: (916) 214-7009
regulations@bscc.ca.gov

Fax: (916) 322-2461

The auxiliary contact person is:

Ginger Wolfe, Staff Services Manager II
2590 Venture Oaks Way, Suite 200
Sacramento, CA 95833
Phone: (916) 445-5073
regulations@bscc.ca.gov
Fax: (916) 322-2461