

**STATEMENT OF SCOPE
DEPARTMENT OF CORRECTIONS**

Rule Number: Chapter DOC 309

Relating to: Inmate Personal Property

Rule Type: Permanent and Emergency

1. FINDING/NATURE OF EMERGENCY (FOR EMERGENCY RULE ONLY).

The Department of Corrections find that an emergency exists and that this rule revision is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

At the Division of Adult Institutions, the climate at our facilities plays a critical role in maintaining public safety for our staff and persons in our care. Over the last several years, as a result of inflation and other economic realities outside of the control of DOC, costs have increased. Those increased costs have impacted persons in our care. The value limits currently in rule have not changed in almost a decade. Therefore, the DOC is seeking an emergency rule to increase property value limits in order to align with the overall increased costs of living. Additionally, changes in technology offer electronics which meet the security requirements, but now cost more than the current value limit. The DOC is currently working through the Administrative Rule process, however, we believe this particular section of the administrative code requires immediate attention in order to maintain the safety and welfare of staff and persons in our care.

2. DETAILED DESCRIPTION OF THE OBJECTIVE OF THE PROPOSED RULE.

The objective of this rulemaking is to review the provisions related to the value of inmate personal property and update accordingly to reflect changes in operations and practices of the Department as they affect inmate resources.

3. DESCRIPTION OF EXISTING POLICIES AND NEW POLICIES INCLUDED IN PROPOSED RULE AND AN ANALYSIS OF POLICY ALTERNATIVES.

The Department is responsible for the care and custody of persons convicted and sentenced to state correctional facilities. As part of that responsibility, the department provides inmates with access to a number of resources including mail, news media, publications, visitation, special events, access to the courts, personal property, food, personal hygiene, leisure time activities, telephone calls, clothing, canteen, inmate account funds, inmate compensation and religious practice.

There is a need to update the current rule to reflect changes regarding the limitations on the value of inmate personal property. The alternative to this proposed rulemaking is not amending the provisions of this rule which would result in the department continuing to have outdated policies and a rule which needs reform.

4. STATUTORY AUTHORITY.

Section 227.11 (2) (a) – (c): Rule –making authority is expressly conferred as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or non-statutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

(b) Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.

(c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 301.02: The department shall maintain and govern the state correctional institutions.

Section 301.03(2): Supervise the custody and discipline of all prisoners and the maintenance of state correctional institutions and the prison industries under s. 303.01.

5. ESTIMATE OF AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OTHER RESOURCES NECESSARY TO DEVELOP THE RULE.

The Department estimates that it will take approximately 50 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

6. LIST WITH DESCRIPTION OF ALL ENTITIES THAT MAY BE AFFECTED BY THE PROPOSED RULE.

Rule revisions will primarily affect inmates, families of inmates and DOC staff.

7. SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE.

No federal regulations are affected or have an effect on the proposed changes.

8. ANTICIPATED ECONOMIC IMPACT OF IMPLEMENTING THE RULE. NOTE IF THE RULE IS LIKELY TO HAVE AN ECONOMIC IMPACT ON SMALL BUSINESSES.

Rule changes will likely have no economic impact on DOC or its county stakeholders.

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