



Department of Corrections and Rehabilitation

**NOTICE OF CHANGE TO  
REGULATIONS**

**Section: 3140**

**Number:**

**15-09**

**Publication Date:**

**October 9, 2015**

**Effective Date:**

**To be Announced**

**INSTITUTION POSTING AND CERTIFICATION REQUIRED**

This Notice announces the proposed amendments to Section 3140 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to incorporate into the CCR, provisions concerning Funds Enclosed in Correspondence.

**IMPLEMENTATION**

To be announced.

**PUBLIC COMMENT PERIOD**

Any person may submit written comments about the proposed regulations to the California Department of Corrections and Rehabilitation, Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, by fax to (916) 324-6075, or by e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). All written comments must be received by the close of the public comment period, December 2, 2015, at 5:00 p.m.

**PUBLIC HEARING INFORMATION**

A public hearing regarding these proposed regulations will be held on December 2, 2015, from 10:00 a.m. to 11:00 a.m. in the Kern/Colorado room, located at 1515 S Street, North Building, Sacramento, CA 95811. The purpose of the hearing is to receive oral comments about this action. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or facsimile comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

**POSTING**

This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each Department facility and field office not later than five calendar days after receipt. Also, facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies, and shall distribute it to inmate law libraries and advisory councils. CDCR Form 621-A (Rev. 09/14), Certification of Posting, shall be returned to the RPMB electronically, by fax, or by mail. See Department Operations Manual Sections 12010.12.1 and 12010.12.2 for posting and certification of posting procedures.

**CONTACT PERSON**

Inquiries regarding this Notice should be directed to Timothy M. Lockwood, Chief, RPMB, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone (916) 445-2269 or e-mail [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Inquiries regarding the subject matter of these regulations may be directed to Michael Valerio, Inmate Accounting Branch, at (916) 255-1030.

*Original signed by:*

**KENNETH J. POGUE**

Undersecretary, Administration and Offender Services  
California Department of Corrections and Rehabilitation

Attachments

## NOTICE OF PROPOSED REGULATIONS

### California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Section 3140 of the California Code of Regulations (CCR), Title 15, Division 3, concerning funds enclosed in correspondence.

#### **PUBLIC HEARING:**

Date and Time: **December 2, 2015 - 10:00 a.m. to 11:00 a.m.**

Place: Department of Corrections and Rehabilitation  
Kern/Colorado Room  
1515 S Street – North Building  
Sacramento, CA 95811

Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period will close **December 2, 2015 at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at [RPMB@cdr.ca.gov](mailto:RPMB@cdr.ca.gov) before the close of the comment period.

#### **CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief**  
**Regulation and Policy Management Branch**  
**Department of Corrections and Rehabilitation**  
**P.O. Box 942883, Sacramento, CA 94283-0001**  
**Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**S. Pollock**  
**Regulation and Policy Management Branch**  
**Telephone (916) 445-2308**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Michael Valerio**  
**Inmate Accounting Branch**  
**(916) 255-1030**

#### **AUTHORITY AND REFERENCE:**

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

Current regulations allow for funds to be mailed to an inmate in the form of a money order, certified check, personal check, or any other negotiable means except cash and traveler's checks. No provisions exist regarding receiving funds from unidentified sources, or putting the inmate's name as the sender of the funds. Receiving funds from unidentified sources can be problematic as multiple issues can arise from receiving funds from unknown sources. Some of these problems include: inability to return funds to the sender for inmates that may have paroled or transferred to another institution; violating Title 15, Section 3139, which requires another inmate, parolee, or probationer to obtain the Warden's permission in order to correspond with inmates inside the CDCR system; and furtherance of criminal profiteering activity, by inmates receiving funds from Security Threat Groups or other questionable persons, in exchange for criminal acts.

The proposed regulations will require that a sender's name and address be written on the document that is mailed in, and that the funds be from a sender other than the inmate. This will aid staff by allowing them to investigate or return funds sent from unacceptable sources, or to an incorrect address, while also providing clear direction and standardized procedures, and ensuring the safety and security of the institution.

The broad objective of the regulation is to improve efficiency, and combat criminal activity when unidentified funds are received.

This action provides the following:

- Amends Section 3140 to add "cashier's check" as an acceptable method of funds that may be mailed to an inmate.
- Amends Section 3140 to add language requiring that funds mailed to an inmate shall be from a sender other than the inmate, and that the sender's name and address shall be written on the document.

**BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:**

The proposed regulatory action will benefit CDCR staff by improving efficiency for when a sender of inmate funds is unidentified. By requiring the sender's name and address, funds can be returned to the sender when the inmate cannot be located due to being paroled or transferred. Additionally, potential criminal activity can be thwarted if the funds are in connection to a Security Threat Group, or from someone not approved to correspond with the inmate.

**EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING LAWS/REGULATIONS:**

The Department has determined that these proposed regulations are consistent and compatible with existing state laws and regulations. The Department reached this conclusion by reviewing existing CCR, Title 15, Division 3, related to funds enclosed in correspondence, and determining that these regulations are a supplement to existing regulations pertaining to funds enclosed in correspondence.

**LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

**FISCAL IMPACT STATEMENT:**

- **Cost to any local agency or school district that is required to be reimbursed pursuant to 17500 et seq.:** *none*
- **Cost or savings to any state agency:** *none*
- **Other nondiscretionary cost or savings imposed on local agencies:** *none*
- **Cost or savings in federal funding to the State:** *none*

**EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

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

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations will not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT:**

The Department has determined that the proposed regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulations will have no affect on worker safety, or the state’s environment, because the proposed regulations relate strictly to the internal management of CDCR institutions. The proposed regulations will benefit the health and welfare of California residents by promoting safety and security within the institutions.

**CONSIDERATION OF ALTERNATIVES:**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, 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. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

**AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared, and will make available, the text, and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the Department’s website <http://www.cdcr.ca.gov>.

**AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the

public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

## **TEXT OF PROPOSED REGULATIONS**

In the following, underline indicates new or additional text and ~~strikethrough~~ indicates deleted text.

### **Title 15, Crime Prevention and Corrections**

#### **Division 3, Adult Institutions, Programs, and Parole**

#### **Chapter 1. Rules and Regulations of Adult Operations and Programs**

#### **Subchapter 2. Inmate Resources**

#### **Article 4. Mail**

#### **3140. Funds Enclosed in Correspondence.**

**Subsection 3140(a) is amended to read:**

(a) Funds may be mailed to an inmate in the form of a money order, cashier's check, certified check, personal check, or any other negotiable means except cash and ~~Traveler's Checks~~, and shall be from a sender other than the inmate. The sender's name and address shall be written on each of the aforementioned documents.

**Subsections 3140(a)(1) through 3140(e) are unchanged.**

Note: Authority cited: Section 5058, Penal Code. Reference: Section 2601, Penal Code.

## **INITIAL STATEMENT OF REASONS**

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend Section 3140, of the California Code of Regulations (CCR), Title 15, Division 3, governing Funds Enclosed in Correspondence.

The proposed revisions will allow the Department to place a hold on funds received from the public for deposit into an inmate's trust account until the sender of the funds has been identified.

Current regulations allow funds from money orders and certified checks from the public that have the inmate listed as the sender, or that have the sender information omitted altogether, to be placed upon receipt into the inmate's trust account. The Department has made a determination to hold these funds until the sender can be identified.

This change to Section 3140(a) strengthens existing regulations by adding language that helps to identify individuals who send funds to inmates. This change is necessary because there has been an increase in which individuals sending money orders to inmates through the mail are putting the inmate's information in the sender information area, making it appear that the inmate sent the funds to themselves, and possibly as an attempt to conceal the real sender's identity. In other instances, the sender's name and address are omitted altogether.

Receiving funds from unidentified sources creates; 1) an administrative problem for the Department, 2) a possible violation of CCR, Title 15, Division 3, Section 3139, Correspondence Between Inmates, Parolees, and Probationers and, 3) a potential security risk not only to the institution, but to the outside community.

Correspondence containing funds without a sender and return address is an administrative problem when an inmate paroled, or cannot otherwise be specifically identified because of an insufficient inmate address. If a sender's information and address is provided, the Department can simply return the funds to the sender with a notation that the inmate's address was insufficient, or that the inmate has paroled. If the sender's information is missing, it is very hard for the Department to know who the funds should be returned to, making it more likely that these will become unclaimed funds.

Unidentified senders could be another inmate, parolee, or probationer, trying to circumvent current regulations which require a Warden's permission in order to correspond with inmates inside of the CDCR system (Title 15, Section 3139). Alternatively, the sender could also be a member of the public, or gang affiliate, or recognized Security Threat Group (STG) (as defined in Title 15, Division 3, Section 3000), providing funds to inmates while wishing to conceal their identity.

Inmate correspondence is sometimes used to further criminal activity. The following examples have all been found in inmate correspondence: gang instructions directed within and outside prison, orders to attack or intimidate inmates, directions for drug trafficking and other criminal operations within and outside prison, threats and intimidation of witnesses. If correspondence with inmates is allowed to be anonymous and is then coupled with anonymous funding, the potential for underground criminal enterprises based in prisons is obvious.

The ability to anonymously send monies to incarcerated inmates potentially facilitates criminal profiteering activity. In Penal Code 186.2(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage.... This definition is followed by a list of 33

crime sections. Of the 33 listed crime sections, CDCR's Correctional Intelligence Task Force (CITF) has seen examples of the following:

- Felonious assault
- Extortion
- Forgery
- Gambling
- Pimping and pandering
- Receiving stolen property
- Solicitation of crime
- Trafficking in controlled substances
- Presentation of false or fraudulent claims
- False or Fraudulent activities and schemes
- Money laundering

Many of the above listed criminal acts are coordinated by members of Security Threat Groups (STG) within the Department. The items listed above can have a financial foundation. The only way to dismantle the organized effort is to increase the visibility of the Department's investigative efforts. Requiring basic information such as the sender's name and address enables the investigator to confirm the legitimacy of the funds. The recipient of the funds does not have a heightened expectation of privacy as they are incarcerated. Not allowing anonymous financial transactions will increase public safety, protect the legitimate submitter, enable investigations and decrease potential litigation.

Under these proposed rules, when an inmate's in-coming correspondence containing funds lacks an identified sender/return address or has the inmate as the sender, CDCR staff will ask the inmate if he/she knows who has sent them the funds. Alternatively, if an inmate is expecting funds and doesn't receive them in the timeframe they expect, he/she can make an inquiry of the Trust Office at their institution. If the inmate can provide information to verify that the sender is an authorized party, the funds will be processed into the inmate's trust account. This would be the fastest way for the inmate to identify the unidentified sender of the funds. The institution's Investigative Services Unit (ISU) would make the final determination to return the funds to the sender or have the institution's Trust Office deposit them into the inmate's account.

These proposed regulations will potentially aid in reducing staff time required to investigate the unknown source of the funds sent by unknown senders, and eliminate unnecessary holding of legitimate funds.

Unidentified and unclaimed funds will be held for three years and then remitted to the State Controller's Office (SCO), Division of Unclaimed property. Individuals may search the SCO's website for unclaimed funds and property at: <https://ucpi.sco.ca.gov/UCP/Default.aspx>.

### **Consideration of Alternatives**

The Department must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Currently, no reasonable alternatives have been brought to the attention of the Department that would alter the Department's initial determination.

## **ECONOMIC IMPACT ASSESSMENT**

The Department believes there will not be any significant economic impact with these proposed regulations. The changes for the Department's Funds Enclosed in Correspondence regulations primarily affect the internal management of California state prisons. In accordance with Government Code Section 11346.3(b), the CDCR has made the following assessments regarding the proposed regulations:

### **Creation or Elimination of Jobs within the State of California**

The Department has determined the proposed regulations will have no impact on the creation of new or elimination of existing jobs within the state of California because those jobs are not affected by the internal management of prisons.

### **Creation of New Businesses or Elimination of Existing Businesses within the State of California**

The Department has determined the proposed regulations will have no effect on the creation of new or elimination of existing businesses within the state of California because those businesses are not affected by the internal management of prisons.

### **Expansion of Business Currently Doing Businesses within the State of California**

The Department has determined the proposed regulations have no effect on the expansion of businesses currently doing business within the state of California because they are not affected by the internal management of prisons.

### **Significant Adverse Economic Impact on Business**

The Department has made an initial determination this action will not have a significant adverse economic impact on business in the state of California because those businesses are not affected by the internal management of prisons.

### **Local Mandates**

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

### **Benefits of the Regulations**

The proposed regulatory action will benefit CDCR staff and inmates by eliminating unnecessary holding of legitimate funds, improving the efficiency for depositing those funds into the inmate's trust account, and reducing staff time required to investigate unknown sources of funds sent by unknown senders, while also preserving the security both within and outside of the prisons by prohibiting correspondence between unauthorized senders.

### **Materials Relied Upon**

The Department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

## **Specific Purpose and Rationale for each Section, per Government Code 11346.2(b)(1)**

### **Chapter 1. Rules and Regulations of Adult Operations and Programs**

#### **Subchapter 2. Inmate Resources**

#### **Article 4. Mail**

##### **3140. Funds Enclosed in Correspondence.**

Subsection 3140(a) is amended to add “cashier’s check” to the types of funds that may be mailed to an inmate. This is necessary to update this section, as cashier’s checks are acceptable methods of payment that may be mailed to an inmate. In addition, the new language: “and shall be from a sender other than the inmate. The sender’s name and address shall be written on each of the aforementioned documents” is added, as this language is necessary to allow the Trust Offices to place a hold on funds until the sender information can be determined. Additionally, for correction purposes, the wording “Travelers Checks” was changed to “traveler’s checks” for proper capitalization and punctuation.