

Chapter Law 78-28

Senate Bill 209

An act relating to the Administrative Procedure Act; amending s. 120.52(10), Florida Statutes, redefining the term “party” for the purposes of the Administrative Procedure Act; providing that prisoners shall not be considered parties under the act for the purpose of obtaining specified proceedings; limiting prisoner input on rules of Department of Offender Rehabilitation to written statements; providing an effective date.

Be it enacted by the Legislature of the State of Florida:

Section 1. Subsection (10) of section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.--As used in. this act:

(10) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d) Any county representative, agency, department or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the Board of County Commissioners has, by resolution authorized the representative agency, department or unit to represent the class of interested person. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

Prisoners as defined in s. 944.02(5) shall not be considered parties for the purposes of obtaining proceedings under s. 120.54(16) or s. 120.57.

Section 2. Section 120.54(3), Florida Statutes, is amended to read:

120.54 Rulemaking; adoption procedures.--

(3) If the intended action concerns any rule other than one relating exclusively to organization, procedure or practice, the agency shall, on the request of any affected person received within 14 days after the date of publication of the notice, give affected persons an opportunity to present evidence and argument on all issues under consideration appropriate to inform it of their contentions. Prisoners as defined in s. 944.02(5) may be limited by the Department of Offender Rehabilitation to an opportunity to submit written statements concerning intended action on any department rule.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor May 8, 1978.

File in Office Secretary of State May 8, 1978.