WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION

Form #3

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2002 JUL 26 P 4:15

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Division of Juvenile Services TITLE NUMBER: 101

CITE AUTHORITY: Section 1.2 of Rule

AMENDMENT TO AN EXISTING RULE: YES ____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: ____

TITLE OF RULE BEING AMENDED: ____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: WV Minimum Standards for Structure, Operation and Maintenance of Juvenile Detention & Correctional Facilties

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Authorized Signature

SCANNED

BRIEF SUMMARY

STATEMENT OF CIRCUMSTANCES

Under West Virginia Code §31-20-9a the legislative body of the State of West Virginia mandated that standards be put in place to guide the operation of all facilities within the Division of Juvenile Services.

The Governor has appointed that commission and these standards are the product of the Commission's work.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Minimum Standards for Structure, Operation, and Maintenance of Juvenile Detention and Correctional Facilities

Type of Rule: X Legislative ____ Interpretive ____ Procedural

Agency: Division of Juvenile Services

Address: 1200 Quarrier Street - 2nd Floor

Charleston, WV 25301

1. Effect of Proposed rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of Above Estimates:

Standards and Procedures have no cost.

3. Objectives of These Rules:

Establishes minimum standards and procedures for juvenile detention and correctional facilities in West Virginia, under the jurisdiction of the West Virginia Division of Juvenile Services. These standards apply to juvenile detention and correctional facilities completed after January 1, 2002, but shall serve as guidelines for any facility in operation before that date.

Rule Title: West Virginia Minimum Standards for Structure, Operation and Maintenance of Juvenile Detention and Correctional Facilities

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Standards and Procedures have no cost.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

Standards and Procedures have no cost.

C. Economic Impact on Citizens/Public at Large.

Standards and Procedures have no cost.

Date: 6/25/02

Signature of Agency Head or Authorized Representative:

101CSR1

TITLE 101
LEGISLATIVE RULE
JUVENILE FACILITIES STANDARDS COMMISSION

SERIES 1

WEST VIRGINIA MINIMUM STANDARDS FOR STRUCTURE, OPERATION, AND MAINTENANCE OF JUVENILE DETENTION AND CORRECTIONAL FACILITIES

§101-1-1. General.

1.1. Scope. This legislative rule establishes minimum standards and procedures for juvenile detention and correctional facilities in West Virginia, under the jurisdiction of the West Virginia Division of Juvenile Services. These standards apply to juvenile detention and correctional facilities completed after January 1, 2002, but shall serve as guidelines for any facility in operation before that date.

1.2. Authority. W.Va. Code §31-20-9a.

1.3. Filing date.

1.4. Effective date.

101-1-2. Administration, Organization, and Philosophy.

2.1. Organization and Administration. The juvenile detention and correctional facilities in West Virginia shall be administered and managed by the West Virginia Division of Juvenile Services as provided in W. Va. Code §49-5E et seq.

2.2 Philosophy, goals and policies. The Juvenile Facilities Standards Commission is responsible for the formulation and approval of desirable standards for the care of juveniles. The standards shall be updated through consultation with the Division of Juvenile Services, the juvenile detention and correctional facilities operated under the direction of the Division of Juvenile Services and the Division of Juvenile Services Advisory Board. The standards at a minimum shall be based upon those juvenile standards established by the American Correctional Association. The West Virginia State Licensing Requirements for Group Residential Facilities shall also be a source for the updating of these standards. A written mission statement shall be prepared by Division of Juvenile Services that describes the philosophy, goals and policies of the facilities under its control, and is to be reviewed annually and updated as necessary. This statement shall be made available to staff, residents and the general public.

§101-1-3 Personnel

3.1. General. The Division of Juvenile Services shall abide by the rules and regulations of 143CSR1, West Virginia Division of Personnel Administrative Rules and follow the statutory provisions for personnel and human resource matters.

§101-1-4 Training and Staff Development

4.1. General. A written policy outlining procedure and practice will provide that a qualified supervisory employee shall plan, coordinate and supervise the facility's employee staff development and training program. The training plan/curriculum will be reviewed annually and developed, evaluated and updated based on an annual assessment that identifies current job related training needs. The facility's training plan and curriculum will be developed by an advisory training committee composed of the Division of Juvenile Services training coordinator and representatives from other institutional departments.

§101-1-5 Management Information and Research.

5.1 General. System of Information. The facility shall contribute to, have access to, and use an organized system of information storage and retrieval relative to both juvenile resident and operational needs. Policy and procedures shall govern the security of the information and data collection systems including certification, access to data and protection of the privacy of all juvenile residents under the jurisdiction of the Division of Juvenile Services. This shall include collaboration with criminal justice and service agencies in information gathering, exchanges and standardization, resident population accounting, evaluation, research, and resident participation.

§101-1-6 Resident Records.

6.1 General. Resident information shall be recorded for every juvenile admitted to the facility. The Division of Juvenile Services shall maintain the custody, privacy, security and preservation of records on all residents committed or assigned.

§101-1-7 Physical Plant.

7.1 General. The facility shall conform to applicable federal, state and/or local building codes. The facility shall conform to applicable zoning ordinances or, through legal means, attempt to comply with or change such laws, codes or zoning ordinances. The facility shall conform to applicable federal, state or local fire safety codes. The facility shall conform at a minimum to applicable standards for juveniles established by the American Correctional Association addressing the following: space, lighting and ventilation; housing of juveniles; sleeping rooms and day rooms; toilets and urinals; bathing and shower facilities; accommodations for juveniles with disabilities; and environmental conditions.

§101-1-8 Sanitation and Hygiene

8.1 General. The facility shall be maintained in a condition that is clean, healthful and sanitary, and which conforms with applicable federal, state and local sanitation and health laws and rules. The facility shall develop and implement a written policy on procedures and practice of sanitation and hygiene including any required periodic sanitation inspections of all facility areas. The policy shall address and provide for a waste disposal system; control of insects and vermin; a stored supply of clothing and bedding and accountability for each; a housekeeping plan; hot and cold water bathing facilities; a system of issuance and exchange of suitable, clean bedding, towels and linen; articles necessary for personal hygiene; and hair care services.

§101-1-9 Medical and Health Care Services

9.1 General. All residents shall have prompt access to necessary emergency, medical, dental and psychiatric care provided in a reasonable manner by licensed personnel. The facility shall have a written policy on procedures for screening and processing complaints regarding health care. The policy shall include a suicide prevention and intervention program which will be periodically reviewed by a qualified medical or mental health professional. All staff with responsibility for resident supervision shall be trained in the implementation of these services.

§101-1-10 Resident Rules and Discipline

10.1 General. Rules of conduct. The Director of the Division of Juvenile Services shall provide for written rules of conduct which specify acts prohibited within the facility and penalties that may be imposed for various degrees of violation. A rule book containing the chargeable offenses, ranges of penalties and disciplinary procedures shall be posted in a conspicuous and accessible area. A copy shall be provided to juveniles and staff members. The written rules shall be reviewed annually and updated as needed.

§101-1-11 Food Services

11.1 General. The facility shall have a full-time staff member supervise food service operations. Accurate records shall be maintained and shall include the number, cost, and type of all meals served. The food services supervisor of the facility shall document and review the facility's system of dietary allowance to insure compliance with nationally recommended food allowances for basic nutrition; compliance with sanitation and health codes as promulgated by federal, state and local authorities; and health protection relating to food handlers and juveniles working in food services. Facilities may contract for food services.

§101-1-12 Academic and Vocational Education.

12.1 General. The facility shall make available academic, vocational, and work programs that are relative to the individual needs of the residents. Space and equipment needs of academic and vocational programs shall be in compliance with School Building Authority standards and state and federal education law.

§101-1-13 Library Services.

13.1 General. The facility administrator shall have available a specific person to coordinate and supervise library services which may be a separate room or location distinguished as a "library," or a variety of selected reading materials. Library services shall be provided and will be made available to all juveniles.

§101-1-14 Recreation and Activities.

14.1 General. A facility of fifty or more juveniles shall have a full-time, qualified recreation director who plans and supervises all recreation programs. A facility of less than fifty juveniles shall have a staff member who is trained in recreation or a related field. It shall be the policy of the facility that access is provided to recreational opportunities and equipment for indoor and outdoor exercise as weather permits.

§101-1-15 Communication, Mail and Visitation.

15.1 General. The facility shall adopt and enforce written policies and procedures that shall provide telephone access, visitation and further provide that juvenile correspondence, both incoming and outgoing, shall not be read, unless the correspondence could be detrimental to the juvenile's well being or there is evidence of criminal conduct relating to the correspondence. If correspondence is read, the juvenile shall be informed in advance and shall be present when the correspondence is opened, and the action shall be documented.

§101-1-16 Religious observance.

16.1 General. Juvenile residents shall have reasonable opportunities to practice their religion, with visits permitted by spiritual advisors at reasonable times. Provisions will be made for residents to observe the requirements of their faith, limited only by documentation showing a threat to the safety of persons involved in such activity or that the activity disrupts order in the facility.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 26, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:(*Agency Name, Address & Phone No.*) Division of Juvenile Services
1200 Quarrier Street, Charleston, WV 25301
558-6029

LEGISLATIVE RULE TITLE: WV Minimum Standards for Structure, Operation, and Maintenance of Juvenile Detention & Correctional Facilities

1. Authorizing statute(s) citation WV Code § 31-20-9a

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

   June 24, 2002

   b. What other notice, including advertising, did you give of the hearing?
   none

   c. Date of Public Hearing(s) ***or*** Public Comment Period ended:

   July 25, 2002

   d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

   Attached _____ No comments received x

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 26, 2002

f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Manfred Holland, Director, 1200 Quarrier Street, Charleston, WV 25301
558-6029 558-6032 (fax)
Cindy Largent-Hill, Deputy Director, 1200 Quarrier Street, Charleston, WV 25301
558-6029 558-6032 (fax) clargent@djs.state.wv.us
Denny Dodson, Asst. Director Field Services, 1200 Quarrier Street, Charleston, WV 25301 558-6029 558-6032 (fax) ddodson@djs.state.wv.us

g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

STATE OF WEST VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY
DIVISION OF JUVENILE SERVICES
MANFRED G. HOLLAND, DIRECTOR

BOB WISE
GOVERNOR

JOE MARTIN
CABINET SECRETARY

OFFICE OF THE DIRECTOR
2ND FLOOR
1200 QUARRIER STREET
CHARLESTON, WV 25301
TELEPHONE: (304) 558-6029 • FAX: (304) 558-6032

MEMORANDUM

TO: Office of Secretary of State
Administrative Law Division
State Capitol, Suite 157K

FROM: Manfred G. Holland MH
Director

DATE: July 30, 2002

RE: Previously Submitted Rule

The proposed legislative rule entitled "West Virginia Minimum Standards for Structure, Operation, and Maintenance of Juvenile Detention and Correctional Facilities," was timely filed July 26, 2002, with an accompanying questionnaire which indicated that no comments were received. In fact, one comment was received and was inadvertently not included. Enclosed please find that public comment along with the attached Agency Response to Public Comment.

If you have any questions or comments, please do not hesitate to contact me.

MGH:dal

Enclosure

cc: Cindy Largent
Denny Dodson

WVCCA West Virginia Child Care Association

P.O. Box 3403, Charleston, WV 25334-3403 • One United Way Square • 304/340-3611 • FAX: 304/340-3612

July 25, 2002

Manfred Holland, Director
Division of Juvenile Services
1200 Quarrier St.-2nd Floor
Charleston, WV 25301

RE: WV Minimum Standards for Structure, Operation and Maintenance of Juvenile Detention and Correctional Facilities

Dear Manfred:

Thank you for the opportunity to provide comment on the aforementioned standards.

While I understand the ACA standards are comprehensive and address a multitude of areas that will ensure quality programming in these facilities, it is unclear what enforcement mechanism exists to ensure the safety and well being of youth in care. In other words, what will happen should a facility be dangerously out of compliance with the standards, such that the well being of its residents are at risk? What happens if facilities do not comply?

Will there be any oversight, outside of the Division of Criminal Justice or Division of Juvenile Services in monitoring compliance of facilities with these standards and any resultant corrective action plans?

Additionally, it is unclear what mechanisms exist to ensure that complaints of abuse or neglect of youth in these facilities are investigated in a timely manner, or what entity of state government is responsible for following up on such complaints.

Please do not hesitate to contact me if I can provide any additional information.

Sincerely,

Vickie James
Executive Director

STATE OF WEST VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY
DIVISION OF JUVENILE SERVICES
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Agency Response to Public Comment

to the
Division of Juvenile Services
Proposed Legislative Rule

Submitted June 24, 2002 and resubmitted July 26, 2002 entitled:

"West Virginia Minimum Standards for Structure, Operation, and Maintenance of Juvenile Detention and Correctional Facilities"

One public comment was received in the form of a faxed letter. Cindy Largent, Deputy Director of the Division of Juvenile Services discussed the concerns raised in the comment letter with the author Vickie James, as well as with Delegate Vicki Douglas during and subsequent to the Thursday, July 25, 2002, meeting of the Juvenile Justice Subcommittee of the Governor's Committee on Crime, Delinquency and Correction. It was felt that the issues and concerns raised in the comment letter may possibly be outside the scope of authority of the enabling legislation and would be more appropriately addressed by legislative action during the next legislative session.

The author of the public comment letter was satisfied with the discussions and therefore no modifications are being made to the proposed rule at this time.