

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This 

2007 JUN 27 PM 1:46

OFFICE
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Regional Jail and Correctional Facility Authority TITLE NUMBER: 94-6+

RULE TYPE: Legislative CITE AUTHORITY: State 31-20-29

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

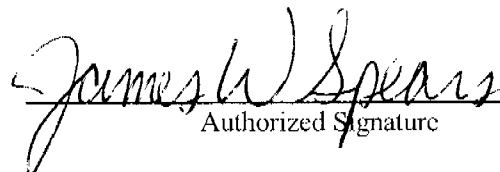
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 6

TITLE OF RULE BEING PROPOSED: Furlough Program for Regional Jails

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 27, 2007 AT 0800 hours ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Chad Cardinal, Esquire
West Virginia Regional Jail and Correctional Facility Authority
1325 Virginia Street, East
Charleston, West Virginia 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

Summary of Proposed Rule

FURLOUGH PROGRAM FOR REGIONAL JAILS

This rule is being proposed to comply with WV Code §31-20-29 which provides authorization for the WV Regional Jail and Correctional Facility Authority to establish a furlough program. The furlough program is designed to establish criteria and guidelines for qualified inmates to attend funerals of immediate family members or a hospital visit for terminally ill family members.

WEST VIRGINIA CODE OF STATE RULES
TITLE 94. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL
FACILITY AUTHORITY
LEGISLATIVE RULE (SER. 6)
SERIES 6. FURLOUGH PROGRAM FOR REGIONAL JAILS

§ 94-6-1. General.

1.1. Scope. -- This legislative rule establishes a furlough program for qualified inmates under the custody and control of the West Virginia Regional Jail and Correctional Facility Authority to attend funerals or make hospital visits to terminally ill immediate family members, as defined below.

1.2. Authority. -- W. Va. Code § 31-20-29

1.3. Filing Date. -- .

1.4. Effective Date. -- .

1.5. Repeal and Replace. -- None

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§ 94-6-2. Definitions.

2.1. Classification. - A process for determining the appropriate security placement and special needs of the inmate population in order to provide a safe, secure and humane correctional system for the public, staff and inmates.

2.2. Furlough - An authorized escorted or unescorted absence from actual confinement within a Regional Jail for a funeral or death bed visit, to a specific place, under specific conditions, and for a specific period of time.

2.3. Unescorted absence - An approved absence from the Regional Jail during which the inmate is not accompanied by a Correctional Officer.

2.4. Escorted absence - An approved absence from the Regional Jail during which the inmate is accompanied by a Correctional Officer(s), which said transport is in compliance with the West Virginia Regional Jail and Correctional Facility Authority's Policy and Procedures concerning inmate transportation.

2.5 Immediate Family: Parents, children, siblings, and spouses.

§ 94-3-3. Applicability.

3.1. This rule is applicable to all Regional Jail Facilities that house adult inmates.

§ 94-6-4. Eligibility for Furlough Consideration.

4.1. The Executive Director shall create policy that provides guidelines for an inmate classification system to determine eligibility for furloughs.

4.2. The Chief of Operations or designee may grant escorted or unescorted furloughs when appropriate for funeral or deathbed visitation.

4.3. This rule is applicable to inmates whose overall custody classification is minimum, and who in the opinion of the Chief of Operations or designee classifies as minimal risk to the general public.

4.4. Furlough for inmates requires the specific approval of the Administrator or his/her designee.

4.5. An inmate must have served at least thirty (30) days in the Regional Jail and have had no finding of misconduct during the preceding six (6) months.

4.6. An inmate may not be granted a furlough if Regional Jail Authority officials believe that he or she poses a threat to him or herself or others, he or she may become involved in criminal activity while on furlough, he or she poses a risk to the victim of the crime or crimes for which committed or he or she poses a risk to the community in general.

4.7. For inmates sentenced to the Division of Corrections, they must comply with the Division of Corrections policies, procedures and agreement with the Authority. The Commissioner of the Division of Corrections or designee must first grant the authority and consent, and make necessary provisions for a furlough.

4.8. This legislative rule does not apply to any inmate(s) incarcerated under the jurisdiction of the United States Marshals Service, the Federal Bureau of Prisons, or the Immigration and Naturalization Service or any other federal incarcerating agency, inmates held on detainers from other states, or held for the benefit of any jurisdiction outside of the sovereignty of the State of West Virginia.

§ 94-6-5. Furlough Requests; Contract; Notification of Counties.

5.1. The West Virginia Regional Jail and Correctional Facility Authority shall establish the procedures necessary for requesting a furlough, and shall designate a Furlough Officer for each regional jail facility to review and handle the requests.

5.2. Reporting requirements, rules, regulations, and special conditions shall be in the form of a contract. The contract shall inform the inmate that his or her conduct will be monitored by the facility while he or she is on furlough. The inmate shall be responsible for the costs of an escorted furlough, to include mileage costs at the state travel regulations rate, and the costs of staff providing security, which shall be projected and a part of the furlough contract. The inmate shall be responsible for a \$10.00 administration fee for processing the furlough.

5.3. Upon receiving a valid request for a furlough from an eligible inmate, the Furlough Officer shall notify the Prosecuting Attorney, Sheriff, in the sentencing counties, as well as the Sheriff in the county to which furlough is requested, if different, that the inmate may be eligible to receive furlough privileges beginning on a particular date.

§ 94-6-6. Procedure for violations.

6.1. The Authority may cancel an inmate's furlough for any violation of the terms and conditions of the furlough or rules of conduct.

6.2. The Authority may discipline inmates who violate the terms and conditions of a furlough in accordance with Authority policy.

6.3. Violation of Contract Conditions of Furlough: Any inmate who fails to timely return from a furlough, or absconds from the custody

of Regional Jail transportation officers, shall be considered to have escaped and charged accordingly.

6.5. The Authority shall report to the appropriate law enforcement authority for prosecution under the applicable statute any violation of conditions of a furlough that is a violation of Federal or State Law.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Furlough Program for Regional Jails

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Regional Jail and Correctional Facility Authority

Address: 1325 Virginia Street, East
Charleston, West Virginia 25301

Attn: Tony Davis, Chief Financial Officer

Phone Number: (304) 558-2110 X2019 Email: tdavis@wvrja.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The passage of this Legislative Rule will not increase the cost for the State of West Virginia.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: _____

Rule Title:

Furlough Program for Regional Jails

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Not Applicable

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Not Applicable

Date: _____

Signature of Agency Head or Authorized Representative

