

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

Form #3

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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

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

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

CITE AUTHORITY: State Code 31-20-29

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: 94-6-1

TITLE OF RULE BEING PROPOSED: Furlough Program for Regional Jails

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

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

OFFICE OF THE
CLERK OF THE
LEGISLATURE
SECRETARY OF STATE

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FILED

§ 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

James W. Spears

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 27, 2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No) WV Regional Jail & Correctional Facility Authority
1325 Virginia St, East
Charleston, WV 25301
304-558-2110

LEGISLATIVE RULE TITLE: Furlough Program for Regional Jail

1. Authorizing statute(s) citation 31-20-29

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 27, 2007

b. What other notice, including advertising, did you give of the hearing?
Legal ads in newspapers and our website.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 27, 2007 @ 8:00 am

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

Attached X No comments received

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

July 27, 2007

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

WV Regional Jail & Correctional Facility Authority

Chad M. Cardinal Esq., General Counsel

1325 Virginia St, East

Charleston, WV 25301

304-558-2110

- 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)

Same as above

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.

b. Date of hearing or comment period:

June 27 2007 through July 27, 2007 @ 8:00 am

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

July 27, 2007

d. Attach findings and determinations and reasons:

Attached

PUBLIC COMMENTS FINDINGS AND DETERMINATIONS

Public Comments from aretired_mom@yahoo.com

aretired_mom@yahoo.com commented that she was opposed to the rule..."We would be a grave chance letting people out for any reason."

Agency's Response

The Authority shares the concern for the public safety and risks inherent in implementing the Furlough Plan specified in W.Va. Code § 31-20-29. To that end the Rule provides for not only a stringent security clearance, but for escorted as well as unescorted furloughs.

Public Comments for the Division of Corrections Jim Rubenstein

Comments that the Rule should prevent Division of Corrections inmates from participating in Jail Furloughs.

Agency's Response

The Proposed Rule provides that Division of Corrections inmates housed in Regional Jails must meet Division of Corrections criteria for Furlough eligibility.

From: "Tony Davis" <tdavis@wvrja.state.wv.us>
Subject: **FW: furlough**
Date: June 29, 2007 7:53:15 AM EDT
To: "Chad M. Cardinal" <ccardinal@wvrja.state.wv.us>

Shoud I be getting this?

Tony W. Davis

Administrative Services Manager II

WV Regional Jail Authority

Phone: 304-558-2110

Fax: 304-558-3993

Email: tdavis@wvrja.state.wv.us

From: betty vanhorn [mailto:aretired_mom@yahoo.com]
Sent: Thursday, June 28, 2007 1:08 PM
To: tdavis@wvrja.state.wv.us
Subject: furlough

In my oppinion the inmate should have thought about what he or she did
I do not support this so I vote no. We would be taking a grave chance letting these people out for any
reason

aretired_mom@yahoo.com

Need a vacation? [Get great deals to amazing places](#) on Yahoo! Travel.

From: "Wyetta Fredericks" <wfredericks@wvrja.state.wv.us>
Subject: **RE: Proposed Rules**
Date: June 29, 2007 8:16:45 AM EDT
To: "Loita Butcher" <butchl@mail.wvnet.edu>, "Chad Cardinal" <ccardinal@wvrja.state.wv.us>
Cc: "John King" <johnking@wvrja.state.wv.us>

Good morning,

I thought we put in there that DOC inmates will go by DOC policy, which would provide you guys with mechanisms to change policy and best meet your needs.

For example, under furlough definitions includes escorted trips. If after your closer review, and you are sure that is the language he wants to include, I will ask Chad to

make that change.

Wyetta Fredericks, Executive Director
WV Regional Jail and Correctional Facility Authority
1325 Virginia St. E.
Charleston, WV 25301

304 558 2110
304 558 2115 (Fax)

From: Loita Butcher [<mailto:butchl@mail.wvnet.edu>]
Sent: Thursday, June 28, 2007 2:13 PM
To: Wyetta Fredericks
Subject: FW: Proposed Rules

Wy,

Commissioner wants to know if we can add that DOC inmates housed in Regional Jails are not eligible for furloughs? If I need to make a formal comment, please let me know.

Loita

From: Jim Rubenstein [<mailto:jrubens1@mail.wvnet.edu>]
Sent: Wednesday, June 27, 2007 12:31 PM
To: Loita Butcher
Subject: FW: Proposed Rules

Loita: I'm not sure if you have had the opportunity to review these yet but if you would look at the one on furloughs and the comments that pertain to DOC inmates. I guess I would like to have her state (if it is not too late) that DOC inmates in the jails are not eligible for furloughs. Not sure if I can do that but let me know your thoughts. Thanks, Jim

Jim Rubenstein
Commissioner

WV Division of Corrections
112 California Ave.
Charleston, WV 25305
(304) 558-2036 Ext. 35
(304) 558-5367 Fax

-----Original Message-----

From: Wyetta Fredericks [<mailto:wfredericks@wvra.state.wv.us>]
Sent: Tuesday, June 26, 2007 5:30 PM
To: 'Jennifer Ballard'; 'Jim Rubenstein'; 'Loita Butcher'
Cc: Chad Cardinal; John King
Subject: Proposed Rules

Here is the content of our proposed rules which will be filed for comment no later than Thursday. Once it is signed and filed, I will send you over a copy. Most language regarding corrections was taken from legislation or agreement between rja and corrections. They will probably open and reveal our strike and inserts, just hit the unmark tab on the view and it will give you th

<< File: Leg Work Program Rule Unmarked.doc >> << File: Leg Furlough Rule Unmarked.doc >>

Wyetta Fredericks, Executive Director
WV Regional Jail and Correctional Facility Authority
1325 Virginia St. E.
Charleston, WV 25301

304 558 2110
304 558 2115 (Fax)