

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

Form #4

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OFFICE OF THE
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NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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

CITE AUTHORITY: Legislative

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: 8

TITLE OF RULE BEING PROPOSED: Work Program for Regional Jail Inmates

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

Office
of The Secretary

DEC 26 2007

Dept. of MAPS

\$3.00

WEST VIRGINIA CODE OF STATE RULES
TITLE 94. WEST VIRGINIA REGIONAL JAIL & CORRECTIONAL FACILITY
AUTHORITY
LEGISLATIVE RULE (SERIES 8)
SERIES 8. WORK PROGRAM FOR REGIONAL JAIL INMATES

§94-8-1. General.

- 1.1 Scope. - This legislative rule establishes a work program for qualified inmates under the custody and control of the West Virginia Regional Jail & Correctional Facility Authority.
- 1.2 Authority. - West Virginia Code §31-20-31
- 1.3 Filing Date. -
- 1.4 Effective Date. -

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§94-8-2. Definitions.

- 2.1 Qualified Inmate. - An inmate who classifies as low risk to facility security and public safety as determined through selection criteria set forth in Regional Jail Authority policy to participate in a work program.
- 2.2 Work Program. - A program to provide qualified inmates with community service work projects with governmental entities, non-profit organizations or be employed with local businesses. The program is designed for life skills development, offender accountability and restorative justice which entails offenders giving back to the communities.
- 2.3 Classification. - A process for determining the appropriate security placement and special needs of the inmate population in order to provide a safe and humane correctional system for the public, staff and inmates.

§94-8-3. Applicability.

- 3.1 This rule is applicable to inmates housed in the WV Regional Jails.
- 3.2 Division of Corrections inmates domiciled at a Regional Jail may be eligible for consideration for work programs, provided that the Commissioner of Corrections or his or her Designee first

determines the eligibility of the inmate for participation in the work program and consents to such inmate's participation.

- 3.3 This legislative rule and the work program does not apply to any inmates incarcerated under the jurisdiction of the United States Marshals Service, the Federal Bureau of Prisons, the Immigration and Customs Enforcement 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.

§94-8-4. Eligibility, Terms and Conditions for Work Program.

- 4.1 To be eligible to participate the inmate must:

- 4.1.1. Be classified minimum custody and be reviewed by a Work Assignment Committee.
- 4.1.2. Have a sentence of at least 30 days
- 4.1.3. Have a completed conducted review and the classification staff have deemed the inmate's conduct to be appropriate for a community work program, in accordance with the classification policies.
- 4.1.4. Inmates sentenced to the Division of Corrections must first be approved by the Commissioner or his or her Designee, and consent must be given by him/her.
- 4.1.5. Not be convicted of a sexual offense or violent felony are not eligible for a work program.

Inmates who violate Rules of Conduct or terms and conditions of the work program may be subject to removal from the program and disciplinary action in accordance with policy and procedures.

Inmates denied participate on a work program may appeal through the Regional Jail Authority Inmate Grievance Procedure.

- 4.4 Regional jail administrators have the discretion to remove any inmate from a work program should he or she determine that the inmate poses a threat to public safety and/or facility security. The inmate may appeal the decision through the Inmate Grievance Procedure.
- 4.5 The Executive Director or his or her Designee shall determine the project priorities for work crews.

§94-8-5. Financial Responsibilities

- 5.1 The Administrator or his or her Designee of each Regional Jail shall receive, receipt and take charge of the money of all inmates, all money sent to the inmates or earned by the inmates as compensation for work performed.
- 5.2 The money of all inmates shall be maintained as set forth in West Virginia Code §31-20-31.
- 5.3 For each inmate sentenced to the Division of Corrections participating in a work program authorized by this section, the Administrator or his or her Designee of the Regional Jail shall keep in an account at least ten percent of all money earned during the inmate's incarceration and pay the money to the inmate at the time of the inmate's release.
- 5.4 The Executive Director shall direct the Administrator or his or her Designee to deduct from the inmate's income, for distribution, an amount not to exceed forty (40) percent in the aggregate for: an administrative fee of \$1.00, court-ordered financial obligations including, but not limited to, court fees, victim restitution, child support obligations owed under a support order and liens.

5.4.1. The following is a general guideline for distribution;

Administrative fee of \$1.00;

20% Child Support Enforcement;

10% Victim Restitution;

10% Court Fees/Court-ordered deductions, etc.

5.4.2. If one item is not owed, then the allowance for that item is to be split equally between the remaining deductions. If only one deduction is owed, then the full 40% will be paid to the deduction.

- 5.5 The remaining balance of the qualified inmate's account after deductions in Section 5.3 and 5.4 will be used to pay any WVRJA required financial obligations. This includes, but not be limited to, incarceration costs and any restitution for facility rule infractions.
- 5.6 Incarceration fees for inmates who are assigned community service projects with governmental entities or non-profit organizations and who may be receiving minimal compensation will be 30% of their income. Incarceration fees for inmates who are employed in the private sector will be determined by a set sliding scale and the ability to pay. Such fees collected will be credited to the responsible billing jurisdiction for said inmate.
- 5.7 All court-ordered financial obligations provided in sections 5.3, 5.4, 5.4.1, 5.4.2, 5.5, 5.6 of this rule have been paid, the Administrator or his or her Designee of a Regional Jail, upon request of an inmate to release funds on behalf of the family of the inmate, may authorize the release of funds up to one half of the money earned by the inmate participating in a work program as authorized by this rule.
- 5.8 The remainder of the inmate's money, after deducting amounts expended as authorized, shall be accumulated to the credit of the inmate and be paid to the inmate at time of his or her release, or as soon as practicable after departure. Provided, that if an inmate is transferred to the physical custody of the Commissioner of the Division of Corrections, at the time he or she leaves the regional jail facility the Administrator or his or her Designee shall deliver moneys and earnings then credited to the inmate to the Commissioner of the Division of Corrections or designee.
- 5.9 In case of the death of the inmate before authorized release from the Regional Jail, the Administrator or his or her Designee shall deliver the property to the inmate's lawful representative.
- 5.10 In case a conservator is appointed for the inmate while he or she is domiciled at the Regional Jail, the Administrator shall deliver to the conservator, upon proper demand, all monies and personal property belonging to the inmate that are in the custody of the Administrator.