

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

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**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: Family Protection Services Board TITLE NUMBER: 191

RULE TYPE: Legislative CITE AUTHORITY: WV Code 48-26-403

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Monitored Parenting and Exchange Program Certification

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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 28, 2014 AT noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

\_\_\_\_\_  
Judy King  
P.O.Box 4228  
Morgantown, WV 26504

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

Judy King  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: 191CSR4

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Family Protection Services Board

Address: Family Protection Services Board  
c/o Division of Justice and Community Services  
1204 Kanawha Blvd. East  
Charleston, WV 25301

Phone Number: 304 292-5100 (Judy King) Email: rdvic99@earthlink.net

**Fiscal Note Summary**

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

This measure will not effect the costs and revenues of state government. As stated, this rule is supported by special revenue accounts. The Domestic Violence Legal Services Fund and the Family Protection Fund provide support for this program.

**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	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: \_\_\_\_\_

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

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

This rule will have no effect on the general revenue budget. It is paid for out of special revenue accounts. There is no increase or decrease in fees.

**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.

This rule is supported by existing fees and will not necessitate increasing the fees. The Board is asking for the amount available for their work to be increased from 5% to 15% of their special revenue account.. There are no plans to increase funding at this time but since the board's work is increasing each year with additional programs applying for licensure, there is the potential for a need for additional staff during the effectiveness of this rule. This requires some flexibility.

Date: 6/26/14

Signature of Agency Head or Authorized Representative

Judy King

## BRIEF SUMMARY OF RULE 191CSR4

This rule is amended to update it from its last iteration of 2003. HB2603 updated the code related to the responsibilities of the Family Protection Services Board which passed in 2013 and this rule updates the Monitored Parenting and Exchange Licensure and makes the rule consistent with the Code. It includes the following:

§1 - This section includes scope and authority.

§2 - This section provides definitions for this program.

§3- This section establishes the licensure standards for Monitored Parenting and Exchange License including:

- \* board requirements
- \* records requirements
- \* facility requirements
- \* requirements for referral plans
- \* confidentiality requirements,

## STATEMENT OF CIRCUMSTANCES THAT REQUIRED THE PROPOSED RULE

This rule has not been updated since 2003. In 2013, the WV Legislature passed HB2603 which updated the responsibilities of the Family Protection Services Board and all licensing programs for which the Board is responsible. Thus all of the associated rules are being amended to comply with the new code.

TITLE 191  
LEGISLATIVE RULE  
FAMILY PROTECTION SERVICES BOARD

SERIES 4  
MONITORED PARENTING AND EXCHANGE PROGRAM ~~CERTIFICATION~~-LICENSURE

1 §191-4-1. General.  
2

3 1.1. Scope - This rule implements the provisions of W.Va. Code  
4 §48-26-1000 and Code of State Rules Title 191-Series 1, relating  
5 to the standards and procedures for the certification licensure of  
6 monitored parenting and exchange programs. The West Virginia Code  
7 is available in public libraries and on the Legislatures' web page  
8 at <http://www.legis.state.wv.us/>.  
9

10 1.2. Authority -- W. Va. Code ~~§48-26-1003~~ §48-26-403.  
11

12 1.3. Filing Date --  
13

14 1.4. Effective Date --  
15

16 §191-4-2. Definitions.  
17

18 2.1.a. "Monitored parenting and exchange program" means a  
19 certified licensed program offered by a locally controlled non-  
20 profit organization for purposes of providing monitored parenting  
21 and monitored exchange, as defined in Series 1 of these rules. a  
22 neutral, safe and child-friendly environment to allow the child or  
23 children access to a parent or other adult without allowing contact  
24 between the adults.  
25

26 2.1.b. "Monitored parenting" means the contact between a parent  
27 without custodial responsibility, a guardian or other adult and one  
28 or more children, in the presence of a third person who monitors  
29 the contact to promote the safety of the participants.  
30

31 2.1.c. "Monitored exchange" means the observation of movement of  
32 a child or children from the custodial responsibility of one parent  
33 or guardian to the custodial responsibility of the other parent or  
34 other adult without allowing contact between adults.  
35  
36

1 **§191-4-3. Certification Licensure Standards for Monitored**  
 2 **Parenting and Exchange Programs.**

3  
 4 3.1. The purpose of licensure is to assure the safety and  
 5 welfare of the children, adults and program staff during  
 6 monitored contact. Once safety is assured, the welfare of the  
 7 child(ren) is the paramount consideration at all stages.

8  
 9 ~~3.1.~~ 3.2 A monitored parenting and exchange program may be  
 10 provided by an free-standing organization not incorporated by a  
 11 larger body or by a sub-division of a larger organization. When  
 12 monitored parenting and exchange services are provided by an agency  
 13 whose primary mission is not monitored parenting and/or exchange,  
 14 the agency shall be responsible for ensuring that staff or persons  
 15 providing monitored parenting and exchange services are trained and  
 16 qualified according to Section ~~3.6~~ 3.7 of these rules and for  
 17 providing services in conformity with all sections of these rules.  
 18 Monitored parenting and exchange programs shall avoid dual roles,  
 19 such as providing parenting/exchange services and also providing  
 20 mediation of custody disputes or providing divorce counseling.

21  
 22 3.3 Nothing in these rules shall preclude a monitored parenting  
 23 and exchange program from offering both monitored parenting and  
 24 exchange services and supervised services.

25  
 26 ~~3.2.~~ 3.4. A monitored parenting and exchange program shall  
 27 establish written policies and procedures ~~in place identifying the~~  
 28 ~~types of services provided and the persons to be served by the~~  
 29 ~~program. The policies and procedures shall~~ that shall include:

30  
 31 ~~3.2.a.~~ 3.4.a. Services provided;

32  
 33 ~~3.2.b.~~ 3.4.b. Confidentiality and release of information;

34  
 35 ~~3.2.c.~~ 3.4.c. Participant acceptance and termination criteria;

36  
 37 ~~3.2.d.~~ 3.4.d. Responsibilities of the participants;

38  
 39 ~~3.2.e.~~ 3.4.e. Information to be gathered during the intake  
 40 assessments;

41  
 42 ~~3.2.f.~~ 3.4.f. Protocols for accepting and responding to  
 43 concerns and complaints;

44

1       ~~3.2.g.~~ 3.4.g. Documentation and record-keeping;

2  
3       ~~3.2.h.~~ 3.4.h. Reporting of criminal behavior and suspected  
4 abuse or neglect;

5  
6       ~~3.2.i.~~ 3.4.i. Hours of operation;

7  
8       ~~3.2.j.~~ 3.4.j. Fees;

9  
10       ~~3.2.k.~~ 3.4.k. Safety and security measures;

11  
12       ~~3.2.l.~~ Program staff and volunteers.

13  
14       ~~3.3.~~ 3.5. A monitored parenting and exchange program shall  
15 establish and/or report to a board of directors which shall meet at  
16 least quarterly and maintain minutes of all meetings, noting quorum  
17 status.

18  
19       ~~3.4.~~ 3.6. A monitored parenting and exchange program shall  
20 provide general liability insurance for board, staff, volunteers,  
21 and for participants utilizing the program.

22  
23       ~~3.5.~~ 3.7. A monitored parenting and exchange program shall  
24 maintain the following records:

25  
26       ~~3.5.a.~~ 3.7.a. A written personnel record for each employee or  
27 volunteer, including documents obtained or created by the program  
28 pertaining to the employee or volunteer.

29  
30       ~~3.5.b.~~ 3.7.b. Appropriate and accurate financial records. The  
31 records shall follow generally accepted accounting principles.  
32 Accounting and auditing procedures shall comply with the guidelines  
33 of the funding source(s).

34  
35       ~~3.7.c.~~ 3.7.c. A monitored parenting and exchange program shall have  
36 written policies and procedures for program evaluation that  
37 include:

38  
39       ~~3.5.c.~~ 3.7.c.1. An evaluation plan to determine the  
40 effectiveness of the program or service activities. Evaluation  
41 shall include participant input.

42  
43       ~~3.5.d.~~ 3.7.c.2. Statistics for evaluation and monitoring.

1 Statistics shall be gathered in a manner that will not compromise  
2 client confidentiality.

3  
4 ~~3.5.e.~~ 3.7.c.3. A participant file for each participant  
5 which includes a copy of court order(s) if applicable, all intake  
6 information, a contract signed by the adults prior to using the  
7 program, written and signed releases of information, and other  
8 agreements, and a record of each contact. Files are to be kept in  
9 a place not accessible to participants, and shall:

10  
11 ~~3.5.e.1.~~ 3.7.c.3.A. Include ~~results~~ documentation of in-  
12 person intake interviews with each participant, including the  
13 children, conducted prior to the first visit, unless age  
14 inappropriate; and

15  
16 ~~3.5.e.2.~~ 3.7.c.3.B. Be updated after each parenting  
17 visitation or exchange to include:

18  
19 ~~3.5.e.2.a.~~ 3.7.c.3.C. Identifying client information;

20  
21 ~~3.5.e.2.c.~~ 3.7.c.3.D. Monitor name;

22  
23 ~~3.5.e.2.c.~~ 3.7.c.3.E. Date, time and duration of contact;

24  
25 ~~3.5.e.2.d.~~ 3.7.c.3.F. Who attended;

26  
27 ~~3.5.e.2.e.~~ 3.7.c.3.G. Account of critical incidents  
28 (violations of program guidelines);

29  
30 ~~3.5.e.2.f.~~ 3.7.c.3.H. Interventions made during the  
31 contact for the safety and well-being of participants, including  
32 early termination of the parenting visit with the reason for the  
33 intervention.

34  
35 ~~3.5.e.3.~~ 3.7.c.3.I. ~~Include the~~ The reason or reasons for  
36 ~~termination of service, if applicable~~ case closure.

37  
38 ~~3.6.~~ 3.8. A monitored parenting and exchange program shall assure  
39 that the facility:

40  
41 ~~3.6.a.~~ 3.8.a. Meets all local health and safety ordinances.  
42

1 ~~3.6.b.~~ 3.8.b. Complies with Americans with Disabilities Act (ADA)  
2 requirements or make arrangements to accommodate individuals with  
3 special needs.  
4

5 3.8.c. Maintain procedures regarding cleanliness of all  
6 surfaces, supplies, and equipment children may come in contact with  
7 to reduce exposure to germs and contaminants.  
8

9 ~~3.7.~~ 3.9. A monitored parenting and exchange program shall  
10 assure the program staff and volunteer quality by the following:  
11

12 ~~3.7.a.~~ 3.9.a. Having written job descriptions and ~~successful~~  
13 background/criminal record checks for staff and volunteers;  
14

15 ~~3.7.b.~~ 3.9.b. Requiring program staff who ~~supervise~~ monitor  
16 parenting visits and exchanges to have a minimum of ~~thirty (30)~~  
17 twenty (20) hours of orientation training and volunteers to have a  
18 minimum of eight (8) hours of orientation training that includes  
19 the following topics.  
20

21 ~~3.7.b.1.~~ 3.9.b.1. Confidentiality  
22

23 ~~3.7.b.2.~~ 3.9.b.2. Recording observations  
24

25 ~~3.7.b.3.~~ 3.9.b.3. General security issues and procedures  
26

27 ~~3.7.b.4.~~ 3.9.b.4. Legal context, court procedures  
28

29 ~~3.7.b.5.~~ 3.9.b.5. Cultural sensitivity  
30

31 ~~3.7.b.6.~~ 3.9.b.6. Family violence, including spousal abuse  
32 and child abuse and neglect including mandated reporting  
33 procedures;  
34

35 ~~3.7.b.7.~~ 3.9.b.7. Substance abuse detection and education;  
36

37 ~~3.7.b.8.~~ 3.9.b.8. Dynamics of separation and divorce;  
38

39 ~~3.7.b.9.~~ 3.9.b.9. Sexual assault.  
40

41 ~~3.7.c.~~ 3.9.c. Requiring program staff to ~~complete training~~  
42 maintain certification in first aid, CPR and/or training in  
43 emergency response methods;  
44

1       ~~3.7.d.~~ 3.9.d. Requiring program staff who monitor parenting  
2 visits and exchanges shall complete a minimum of ten (10) hours and  
3 volunteers to complete a minimum of five (5) hours annually in  
4 continuing education or in-service training relevant to the  
5 exchange and parenting services being provided.  
6

7       ~~3.8.~~ 3.10. A monitored parenting and exchange program shall have  
8 a written security policy that includes, but is not limited to:  
9

10       ~~3.8.a.~~ 3.10.a. Evacuation procedures in case of fire or other  
11 emergency;  
12

13       ~~3.8.b.~~ 3.10.b. Handling of critical incidents such as violent,  
14 dangerous or inappropriate behavior by an adult or child;  
15

16       ~~3.8.c.~~ 3.10.c. Handling of medical emergencies;  
17

18       ~~3.8.d.~~ 3.10.d. Procedures for arrival and departure of  
19 participants so that contact between them does not occur without  
20 the explicit agreement of the parties and the monitored parenting  
21 and exchange program;  
22

23       ~~3.9.~~ 3.11. A monitored parenting and exchange program shall have  
24 a written policy about referrals, including, but not limited to:  
25

26       ~~3.9.a.~~ 3.11.a. Information to be obtained from the referring  
27 agency;  
28

29       ~~3.9.b.~~ 3.11.b. Criteria for accepting and refusing referrals;  
30

31       ~~3.9.c.~~ 3.11.c. Procedure for responding to referring agencies;  
32

33       ~~3.9.d.~~ 3.11.d. Procedure for referring participants to other  
34 services/agencies;  
35

36       3.11.e. Procedure for serving self-referrals when the adult  
37 parties agree to the use of the program; and  
38

39       3.11.f. Procedure for notifying the Courts of case closure.  
40

41  
42 §191.4.4. Confidentiality.  
43

1 4.1. A monitored parenting and exchange program shall have a  
2 written confidentiality policy that preserves the participants'  
3 rights of confidentiality and complies with all state and federal  
4 privacy laws including the following:

5  
6 4.1.a. No licensed program may disclose, reveal or release or  
7 be compelled to disclose, reveal or release, any written records or  
8 personal or personally identifying information about a program  
9 participant created or maintained in providing services, regardless  
10 of whether the information has been encoded, encrypted, hashed, or  
11 otherwise protected, pursuant to this article except:

12  
13 4.1.b. Upon written consent, or upon oral consent in emergency  
14 situations defined by legislative rule, of the person seeking or  
15 who has sought services from the program;

1  
2 4.1.c. In any proceeding brought under sections four and five,  
3 article six, chapter nine of this code or article six, chapter  
4 forty-nine of this code;

5  
6 4.1.d. As mandated by article six-a, chapter forty-nine and  
7 article six, chapter nine of this code;

8  
9 4.1.e. Pursuant to an order of any court based upon a finding  
10 that said information is sufficiently relevant to a proceeding  
11 before the court to outweigh the importance of maintaining the  
12 confidentiality established by this section;

13  
14 4.1.f. To protect against a clear and substantial danger of  
15 imminent injury by a person receiving services to himself or  
16 herself or another; or

17  
18 4.1.g. To disclose Monitored parenting and exchange program  
19 information to one parent or guardian, without the permission of  
20 the other parent or guardian, any perceived threat of harm or  
21 violation of the court order or violation of the monitored  
22 parenting and exchange program rules by the other parent or  
23 guardian;

24  
25 4.2. No monitored parenting and exchange program may release  
26 information about the child without consent of the parent with  
27 custodial responsibility or guardian.  
28

1       4.3. In addition to the provisions set forth in this section,  
2 the release of a victim's personally identifying information is  
3 subject to the provisions of 42 U.S.C. § 13925(b)(2).  
4

5       4.4. No consent or authorization for the transmission or  
6 disclosure of confidential information is effective unless it is  
7 signed by the program participant whose information is being  
8 disclosed. Every person signing an authorization shall be given a  
9 copy.  
10

11       4.5. A victim of domestic violence, dating violence, sexual  
12 assault, or stalking shall not be required to provide consent to  
13 release his or her personally identifying information as a  
14 condition of eligibility for the services, nor may any  
15 personally-identifying information be shared in order to comply  
16 with federal or state reporting, evaluation, or data collection  
17 requirements: Provided, That nothing in this rule prohibits a  
18 program from reporting suspected abuse or neglect, as defined by  
19 law, when the program is mandated by law to report suspected abuse  
20 or neglect.  
21  
22  
23  
24  
25  
26  
27