

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

Form #2

Do Not Mark In This Box

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2014 JUN 27 P 2:12

**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: 5

TITLE OF RULE BEING AMENDED: Perpetrator Intervention Programs Licensure for Correctional Institutions

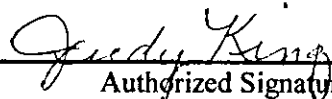
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

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.

  
\_\_\_\_\_  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: 191CSR5

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: 191CSR5

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

Judry King

## BRIEF SUMMARY OF RULE 191CSR5

This rule is a new iteration of the rule on Perpetrator intervention program Licensure for Correctional Institutions that was last updated in 2003. This rule brings this rule into compliance with HB2603 passed in 2013 which updated all of the programs that are overseen by the Family Protection Services Board..

§1 - This section establishes scope and authority of the rule.

§2 - This section updates existing definitions and adds additional ones including intimate partner and batterer intervention and prevention program.

§3 - This section includes Batterer Intervention and Prevention Programs in Correctional Facilities. It includes:

- \* program requirements
- \* identifies Division of Corrections policy directives that apply to this program
- \* staff qualifications
- \* criteria for batterers appropriate for the program
- \* participant records and program plans requirements
- \* Confidentiality requirements
- \* class components
- \* program evaluations

The licensing standards are covered in Series 1 and have therefore been stricken from this rule.

## 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.

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TITLE 191  
LEGISLATIVE RULE  
FAMILY PROTECTION SERVICES BOARD

SERIES 5  
~~PERPETRATOR-BATTERER~~ INTERVENTION AND PREVENTION PROGRAMS  
LICENSURE FOR CORRECTIONAL INSTITUTIONS

191- 5-1. General.

1.1. Scope. -- This rule establishes general standards and procedures for the licensure of perpetrator batterer intervention and prevention programs in correctional institutions as specified in W. Va. Code ~~§§48-26-401 (a) and 48-26-404~~ §48-26-403 and Code of State Rules, Title 191-Series 1. The West Virginia Code is available in public libraries and on the Legislature's web page at <http://www.legis.state.wv.us/>.

1.2. Authority. -- W. Va. Code ~~§§48-26-401 and 48-26-404~~ §48-26-403.

1.3. Filing Date. --

1.4. Effective Date. --

§191-5-2. Definitions.

2.1 "Batterer intervention and prevention program (BIPP)" means a licensed educational program that provides classes to individuals who commit acts of domestic violence or abuse, offering nonviolent strategies and values that promote respect and equality in intimate partner relationships.

~~2.1.~~ 2.2. "Educator/Facilitator" "Facilitator" means an individual who meets the minimum requirements outlined in Section 3.3. of this rule and who directly facilitates regularly scheduled batterer intervention and prevention classes for ~~perpetrators~~ batterers of domestic violence or abuse.

~~2.2~~ 2.3. "Power and Control" means the primary cause that gives rise to the occurrence of domestic violence and family violence. Factors such as alcohol, poverty, unemployment, stress

and substance abuse are conditions that contribute to the incidents of domestic violence and family violence but are not themselves the cause of domestic and family violence.

2.4 "Intimate partner" means a current or former spouse, a person with whom one shares a child in common, a person with whom one is cohabiting or has cohabitated, or a person with whom one is cohabiting or has cohabited, or a person with whom one is or has been in a relationship of a romantic or intimate nature.

**§191-5-3. Licensing Standards for Correctional ~~Perpetrator Batterer~~ Intervention and Prevention Programs.**

3.1. Correctional ~~perpetrator batterer~~ intervention and prevention program requirements are:

3.1.a. A correctional ~~perpetrator batterer~~ intervention and prevention program shall have a written statement of purpose. The statement shall identify the types of services provided and the individuals to be served. The statement of purpose shall be available to the public on request.

3.1.b. A correctional ~~perpetrator batterer~~ intervention and prevention program shall have a written description of its referral process, admission policies, and exit interview process. ~~and follow-up procedures.~~

3.2. Implementation of correctional ~~perpetrator batterer~~ intervention and prevention programs in one or more correctional facilities shall be directed by applicable Division of Corrections policy and/or procedure ~~directive~~ directives on each of the following issues:

- 3.2.a. Personnel qualifications and evaluations.
- 3.2.b. Program implementation.
- 3.2.c. Quality assurance.
- 3.2.d. Ethics.
- 3.2.e. Grievance procedures.

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3.2.f. Confidentiality policies, including records management.

3.3. Staff Qualifications.

3.3.a. ~~Educators/Facilitators~~ Facilitators shall have a minimum of thirty hours of training approved by the Family Protection Services Board, including, but not ~~be~~ limited to, the following:

3.3.a.1. The dynamics of domestic violence within the context of power and control.

3.3.a.2. The effects of domestic violence on victims and their children and the critical nature of victim contacts and safety planning.

3.3.a.3. The understanding that domestic violence is deeply rooted in historical attitudes toward women and other learned oppressive attitudes and behaviors.  
~~and is intergenerational.~~

3.3.a.4. ~~Lethality assessment for~~ The risks of homicide, suicide, further domestic violence or other violent aggressive behaviors and the access to or use of weapons.

3.3.a.5. Information on state and federal laws pertaining to domestic violence, including the policies affecting ~~treatment of~~ court-ordered program participants, orders of protection, child abuse, divorce and custody matters.

3.3.a.6. The role of the facilitator within the group ~~and in the context of~~ is to support and be a part of a coordinated community response to domestic violence.

3.3.a.7. ~~Teaching non-controlling alternatives to violent and controlling behaviors and understanding and preventing collusion.~~ Educating batterers on alternatives to violence and promoting healthy relationships based on equality and respect.

3.3.a.8. Dynamics involved in interpersonal relationships and knowledge of human behavior and development.

3.3.a.9. Understanding and preventing collusion.

3.3.a.10. Group process and facilitation skills training.

3.3.b. ~~Educators/fFacilitators~~ Facilitators shall have at a minimum a high school diploma or ~~general education degree~~ high school equivalency diploma.

3.3.c. ~~Educators/facilitators~~ Facilitators shall receive on an annual basis a minimum of three hours of continuing education or training approved by the Board. The training ~~shall~~ may include, but not be limited to, the following:

3.3.c.1. Domestic violence and substance abuse.

3.3.c.2. Domestic violence and the law.

3.3.c.3. Other issues which pertain to domestic violence.

3.3.c.4. Cultural sensitivity.

3.3.c.5. Group process and facilitation skills training.

3.4. Criteria concerning a ~~perpetrator's~~ batterer's appropriateness for the program.

3.4.a. A ~~perpetrator~~ batterer shall be admitted to a correctional ~~perpetrator~~ batterer intervention and prevention program if ordered by a court or if that person ~~voluntarily enrolls in~~ is referred by the institutional case manager or correctional counselor to the program and is assessed by the program to be eligible for participation ~~in the program.~~ An assessment shall be performed to:

~~3.4.a.1. Identify individuals who would benefit from concurrent mental health or substance abuse treatment programs.~~

~~3.4.a.2. 3.4.a.1. Screen out~~ Identify individuals who have substance abuse problems or other who have impairments which may need modification to ensure they are able to fully

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~~participate in the program~~ ~~them unable to participate in the~~  
~~group intervention even with concurrent or preliminary treatment~~  
~~of those problems.~~

~~3.4.a.3.~~ 3.4.a.2. Screen out individuals from the program who may be dangerous or have severe mental illness and would not benefit from the program.

3.4.b. Upon an individual's admittance to a correctional ~~perpetrator batterer~~ intervention and prevention program, the program ~~educator/facilitator~~ facilitator shall complete a ~~perpetrator batterer~~ intake form. The information for the form shall be collected from the ~~perpetrator batterer, and~~ police reports, court records, institutional records, or other ~~from independent sources such as, police reports, court records~~ and institutional records.

3.4.c. A correctional ~~perpetrator batterer~~ intervention and prevention program shall have a contract outlining the responsibilities of the ~~perpetrator batterer~~ and the educator/facilitator. The terms of the contract shall be agreed to and signed by the ~~perpetrator batterer~~ and the authorized program representative.

3.5.—~~Educators/Facilitators~~ Facilitators of licensed correctional ~~perpetrator batterer~~ intervention and prevention programs shall consult with their immediate supervisor and the ~~Division of Corrections~~ facility victim service representative for any issues involving potential victim contact. The Division of Corrections victim service ~~manager~~ specialist shall be ~~responsible available~~ for overseeing any victim contact that may be deemed appropriate where information is requested about an inmate that cannot be disclosed at the facility level.

3.6. Client Participant Records and Service Program Plans.

3.6.a. The ~~service~~ plan or contract shall be developed by Division of Corrections program staff with the active ~~participation~~ involvement of the ~~client participant~~ and must be completed prior to the provision of ~~services~~ the program. A correctional ~~perpetrator batterer~~ intervention and prevention program shall maintain the service plan or contract and a written record for each individual ~~who receives services from~~ in the program.

3.6.b. Individual client participant records shall include ~~service~~ data from the time of initial contact until the time ~~services are the program is~~ concluded.

3.6.c. Individual client participant case records maintained by a correctional perpetrator batterer intervention and prevention program shall contain an application screening form, which includes identifying data, eligibility factors pursuant to section 3.4., rights and responsibilities, and the participant/client participant signature and authorized staff signature.

3.6.d. A correctional perpetrator batterer intervention and prevention program shall maintain, if possible, a copy of protective orders of protection issued against a perpetrator batterer enrolled in the perpetrator batterer intervention and prevention program.

### 3.7. Confidentiality.

Every correctional perpetrator batterer intervention and prevention program shall have a written policy regarding disclosure of information. There shall be a ~~written agreement between the perpetrator and the program providing for disclosure of information to the victim and a waiver of confidentiality signed by the group participant that: The disclosure agreement shall be signed by the perpetrator.~~

3.7.a. Allows the provider to inform the victim or alleged victim and the victim's advocates that the batterer is participating in a batterer intervention and prevention program with the provider and to provide information to the victim or alleged victim and her or his advocates, if necessary, for the victim's or alleged victim's safety;

3.7.b. Allows prior and current service providers to provide information about the batterer to the provider;

3.7.c. Allows the provider, for good cause, to provide information about the batterer to relevant legal entities, including courts, parole officers, probation officers, child protective services, adult protective services, law enforcement, licensed domestic violence programs, or other referral agencies;

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3.7.d. Allows the provider to report to the court, if the participation was court ordered, and to the victim or alleged victim, if she or he requests and provides a method of notification, and to his or her advocate, any assault, failure to comply with program requirements, failure to attend the program, threat of harm by the batterer, reason for termination and recommendations for changes in the court order; and

3.7.e. Allows the provider to report to the victim or alleged victim, or his or her advocate, without the participant's authorization, all perceived threats of harm, the participant's failure to attend and reason for termination.

~~3.8. Reports.~~

~~The correctional perpetrator intervention program shall provide an annual report to all licensed family protection programs. This report shall contain information on victim services provided by the Division of Corrections, how victims can access services that are available through the Division of Corrections and how licensed family protection programs can gain access to directly relevant information regarding a specific perpetrator.~~

~~3.9. 3.8. Correctional perpetrator Batterer Intervention and Prevention Program Classes.~~

~~3.9.a. 3.8.a. A correctional perpetrator batterer intervention and prevention program class shall last for a period of at least thirty-two in-person sessions and shall include, but not be limited to, the following topics~~

~~3.9.a.1. 3.8.a.1. A model that depicts an overall system of physical, and sexual and emotional abuse where the perpetrator batterer uses methods and tactics of power and control over a victim.~~

~~3.9.a.2. 3.8.a.2. The nature and effects of domestic violence.~~

~~3.9.a.3. 3.8.a.3. The work that is necessary to bring about changes in the attitudes and beliefs that promote domestic and family violence.~~

~~3.9.a.4.~~ 3.8.a.4. The necessity for the maintenance of non-abusive behavior, which includes learning non-violent conflict resolution, non-aggressive communication and maintaining positive, healthy partnerships.

~~3.9.a.5.~~ 3.8.a.5. The importance of community services which allow ~~perpetrator~~ batterer to give something of themselves back to the community and contribute to changing the climate that condones domestic and family violence.

~~3.9.a.6.~~ 3.8.a.6. Information about ~~state and federal law and practice regarding domestic violence and the legal and social consequences for perpetrator~~ of domestic violence.

~~3.9.b.~~ 3.8.b. ~~Educators/facilitators~~ Facilitators of ~~perpetrator batterer~~ intervention and prevention programs shall utilize a group education format with a staff ratio ~~at a minimum of that averages~~ one ~~educator/facilitator~~ facilitator per twelve ~~perpetrators~~ batterers.

~~3.10.~~ 3.9. Correctional perpetrator Batterer Intervention and Prevention Program Evaluation.

By ~~October 31~~ September 30 of each year, a correctional ~~perpetrator batterer~~ intervention and prevention program shall complete and submit to the Family Protection Services Board an annual evaluation for the preceding fiscal year as prescribed by the board. The evaluation shall include but not be limited to the following:

~~3.10.a.~~ 3.9.a. Attendance records of perpetrators to identify including reason(s) for repeated absences. Number of months each batterer intervention and prevention program was in operation.

~~3.10.b.~~ 3.9.b. Number of individuals served unduplicated enrollments.

~~3.10.c.~~ 3.9.c. Number of perpetrator batterer intervention and prevention program classes provided.

~~3.10.d.~~ 3.9.d. Number of perpetrator batterers completing a class.

~~3.10.e.3.9.e. Sentencing county of each perpetrator served in the perpetrator intervention program. The average number of batterers attending each class.~~

~~3.9.f. Current facilitator contact information.~~

~~§191-5-4. Licensure of Correctional Perpetrator Intervention Programs.~~

~~All family protection, perpetrator intervention programs shall be licensed by the Family Protection Services Board to provide services to victims and/or perpetrator s. The Board shall enforce standards and establish a process for the annual licensure for all correctional perpetrator intervention programs in the state.~~

~~4.1. License Application.~~

~~4.1.a. The Board shall provide a standard license application to any correctional facility that wishes to establish a perpetrator intervention program upon request. The correctional facility must complete an application when adding an additional facility it initially requests licensure or when it wishes to reopen after closure. After initial licensure, family protection and perpetrator intervention programs shall be evaluated by the Board on an annual basis. An on-site review will be conducted every two years. At least two correctional facilities will have an on-site review every year.~~

~~4.1.b. The Family Protection Services Board shall consider all applications submitted for licensure in light of the need for services, the ability of the applicant to successfully operate a perpetrator intervention program, the applicant's ability to obtain adequate funding for the delivery of services, the capacity of the program to comply with the Board's standards and the applicant's interest and ability to provide quality services.~~

~~4.1.c. If the Family Protection Services Board finds that an application contains deficiencies, the application and a list of deficiencies will be returned to the applicant, and the applicant will have thirty days to resubmit a revised application.~~

~~4.1.d. The Family Protection Services Board shall renew, on an annual basis, the licenses of all correctional perpetrator intervention programs that are in compliance with this rule. Forms for license renewal shall be distributed by the Board to the Division of Corrections in a timely manner, no later than the fifteenth day of March each year.~~

~~4.1.e. The Family Protection Services Board shall, by certified letter, notify any organization operating without a license as a perpetrator intervention program of its right to apply for licensure. The Board shall petition the circuit court for an order preventing the operation of any organization which refuses to obtain a license as required under this rule and W. Va. Code §§48-26-101 et seq.~~

~~4.2. Issuance of a License.~~

~~4.2.a. The Family Protection Services Board shall issue a license to any correctional facility which has applied for a license and been approved by the Board as having complied with all established standards set forth in this rule. Compliance with the standards shall be evaluated by a combination of individuals as determined by the Board.~~

~~4.2.b. All licenses shall be valid for one year commencing on the first day of July and terminating on the thirtieth day of June of the next year. The Board shall grant or deny a license within forty-five calendar days of receiving the license application. Every licensed perpetrator intervention program shall conspicuously display the license.~~

~~4.3. Evaluation for Licensure.~~

~~4.3.a. The Family Protection Services Board shall annually evaluate all correctional perpetrator intervention programs operating in the state and will review at least two programs on-site every year. all programs on-site a minimum of once every two years. The evaluation will be conducted using the licensing standards found in this rule.~~

~~4.3.b. The Family Protection Services Board shall annually assure an on-site review,     of the established standards found in this rule for at least one-half of all licensed~~

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~~programs. Review of any the remaining programs shall be determined by the Board. The standards compliance review will be completed utilizing the most current revision of the standards checklist authorized by the Board. The annual evaluation will be scheduled in a timely manner by the Board to allow the Board to consider the results prior to the expiration of the current year's license.~~

~~4.3.c. Any areas of non-compliance shall be reported on the licensing checklist by the person(s) authorized by the Family Protection Services Board to conduct the review. The Board shall review each area of non-compliance and consider the relative risk it poses to the health, safety and well being of individuals being served by the perpetrator intervention program and staff employed by the program.~~

~~4.3.d. The Family Protection Services Board may contact the program's partner agencies to determine program effectiveness in relationship to community needs.~~

~~4.4. Waiver of Licensure.~~

~~If the Division of Corrections fails to meet the criteria for licensure, the Board may grant a waiver of licensure to the Division of Corrections if the Board finds it necessary for the good of victims or perpetrator who would be served by the perpetrator intervention program in question. The Board shall review all waivers semi-annually.~~

~~4.5. Issuance of a Provisional License.~~

~~4.5.a. The Board may grant provisional licensure to the Division of Corrections if the Board finds it necessary for the good of participants who will be served by the perpetrator intervention program. All provisional certifications shall be reviewed semi-annually.~~

~~4.5.b. Upon a finding by the Board that a perpetrator intervention program is not in compliance with this rule, the Board may issue a provisional license and shall give the perpetrator intervention program written notice of deficiency that shall include, but not be limited to the following:~~

~~4.5.b.1. A statement of program deficiencies.~~

~~4.5.b.2. A requirement to submit a plan of correction regarding the deficiencies.~~

~~4.5.b.3. A timeline for the Family Protection Services Board's review of the plan of correction.~~

~~4.5.b.4. A requirement that the plan be modified and resubmitted to the Board within twenty days should the original plan not address the identified deficiencies.~~

~~4.5.b.5. A requirement that compliance occur within a time period set by the Board.~~

~~4.5.b.6. Verification of the issuance of a provisional license until compliance is achieved or until the Board takes action deemed necessary for the safety of the clients.~~

~~4.6. Revocation or Suspension of a License.~~

~~The Board may suspend or revoke a license and order closed any perpetrator batterer intervention program that violates the standards established W. Va. Code §§48-26-101 et seq under this rule, subject to the requirements in this rule regarding public hearings under subdivision c of this subsection.~~

~~4.6.a. Four members of the Board must vote in the affirmative before a license may be revoked or suspended.~~

~~4.6.b. The Board shall send written notice of the license revocation or suspension by certified mail to the commissioner of the Division of Corrections. The notice shall include a statement of the program's alleged violations of this rule. The program will have fifteen days after receipt of the notice to respond to the allegations. This response shall be in writing. If there is no written response, the Board will proceed with the revocation or suspension of the program's license. The Board will not provide funds to a perpetrator intervention program whose license has been revoked or suspended.~~

~~4.6.c. If the Board is provided with a response to the violations, a public hearing will be held within thirty days in the municipality or county in which the program is located.~~