

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

Form #3

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2014 JUL 30 P 2:30

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Family Protection Services Board TITLE NUMBER: 191

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: \_\_\_\_\_

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.

Juday King  
Authorized Signature

## 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.

APPENDIX B

**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)
<b>1. Estimated Total Cost</b>	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			
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rule Title: 191CSR4

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

Quadey King

**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: 7/30/14

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* Family Protection Services Board  
c/o Division of Justice and Community Services  
1206 Kanawha Blvd. East  
Charleston, WV 25301  
(304) 292-5100 (Judy King) President of Board

LEGISLATIVE RULE TITLE: 191CSR4

1. Authorizing statute(s) citation WV Code Section 48-26-403

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 27th, 2014

b. What other notice, including advertising, did you give of the hearing?  
A notice of opportunity for public comment was sent to all providers licensed by this board and all interested parties identified by the board with directions to the Secretary of State website.

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
Public comment period ended at noon on 7/28/2014.

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

Attached \_\_\_\_\_ No comments received   x

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

After public comment filed 7/30/2014

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

Patricia Bailey, Executive Director of  
Women's Resource Center and Vice President of the BPSB  
P.O. Box 1476  
Beckley, WV 25802-1476

Work Phone 304 255-2559

Work Fax 304 255-1585

Cell 304 673-0064

- 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 "f"

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.

No such requirements

b. Date of hearing or comment period:

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

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d. Attach findings and determinations and reasons:

Attached 

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TITLE 191  
LEGISLATIVE RULE  
FAMILY PROTECTION SERVICES BOARD

2011 JUL 30 P 2:30

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

§191-4-1. General.

1.1. Scope - This rule implements the provisions of W.Va. Code ~~§48-26-1000~~ 48-26-403 and Code of State Rules Title 191-Series 1, relating to the standards and procedures for the ~~certification~~ licensure of monitored parenting and exchange programs. The West Virginia Code is available in public libraries and on the Legislatures' web page at <http://www.legis.state.wv.us/>.

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

1.3. Filing Date --

1.4. Effective Date --

§191-4-2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~3.2.j.~~ 3.4.j. Fees;

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

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

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

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

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

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

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

3.7.c. A monitored parenting and exchange program shall have written policies and procedures for program evaluation that include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~3.7.b.1.~~ 3.9.b.1. Confidentiality

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S191.4.4. Confidentiality.

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

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

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

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

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

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

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

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

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

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

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

4.5. A victim of domestic violence, dating violence, sexual assault, or stalking shall not be required to provide consent to release his or her personally identifying information as a condition of eligibility for the services, nor may any personally-identifying information be shared in order to comply with federal or state reporting, evaluation, or data collection requirements: *Provided*, That nothing in this rule prohibits a program from reporting suspected abuse or neglect, as defined by law, when the program is mandated by law to report suspected abuse or neglect.