

Form #2

FILED

2006 JUN 28 A 10: 59

~~OFFICE WEST VIRGINIA~~
~~SECRETARY OF STATE~~

ATTACH A **BRIEF** SUMMARY ~~OF~~ YOUR PROPOSAL

90CSR2

**TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS**

**SERIES 2
PAROLE SUPERVISION**

SUMMARY OF CHANGES

This legislative rule establishes rules and regulations governing the conduct of inmates release on parole and of parolees and probationers whose supervision has been undertaken by this state by reason of any interstate compact.

The proposed changes in this rule reflect the recent passage of HB 101 in the First Special Session of 2006 wherein a registry was created to track those convicted of child abuse and neglect charges when an inmate is granted parole.

**TITLE 90
LEGISLATIVE RULES
DIVISION OF CORRECTIONS**

**SERIES 2
PAROLE SUPERVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE**§90-2-1. General.**

1.1. Scope. -- This legislative rule governs the conduct of all inmates released on parole and of parolees or probationers whose supervision has been undertaken by this state by reason of any interstate compact. This series does not apply to probationers under the supervision of a county probation officer in West Virginia.

1.2. Authority. -- W. Va. Code §§62-13-2 and 62-12-17.

1.3. Filing Date. --

1.4. Effective Date. --

§90-2-2. Terms and Conditions for Parolee or Probationer Supervision.

2.1. All parolees or probationers supervised by the parole authorities of the West Virginia Division of Corrections shall be required to abide by and execute a statement that he or she understands the following conditions and agrees to abide by them:

a. When released, a parolee or probationer must proceed directly to the place to which he or she has been paroled (or otherwise required to reside) and report to his or her parole officer within twenty-four (24) hours unless otherwise instructed;

b. A parolee or probationer must obtain written permission from his or her parole officer before he or she leaves the prescribed area of supervision to which he or she is paroled;

c. A parolee or probationer must notify his or her parole officer of any changes of residence or employment prior to those changes taking place so that any changes may be reviewed for supervision suitability;

d. A parolee or probationer must have

suitable employment, remain gainfully employed, and support any dependents to the best of his or her ability;

e. A parolee or probationer must maintain behavior that does not threaten the safety of himself or herself or others or that could result in imprisonment;

f. A parolee or probationer must not own, carry or possess firearms or unlawful weapons of any kind;

g. A parolee or probationer must report within twenty-four (24) hours to his or her parole officer each time he or she is arrested or questioned by officers of any law enforcement agency;

h. Between the first and tenth of each month a parolee or probationer must make a complete and truthful written report to his or her parole officer of his or her previous month's activities on forms provided by his or her parole officer;

i. The parolee or probationer must report in person as directed by the parole officer;

j. A parolee or probationer must not possess, use, or have in his or her possession any illegal drugs, paraphernalia or alcohol for consumption;

k. A parolee or probationer must not violate any municipal ordinances or the laws of this state, any other state, or the United States;

l. A parolee or probationer must abide by any special written requirements imposed by his or her parole officer;

m. A parolee or probationer must pay a monthly supervision fee not to exceed forty dollars (\$40.00) per month by certified check or money order no later than the 5th of each month

to the Division of Corrections Supervision Fund, Building 4, Room 300, 112 California Avenue, Charleston, West Virginia 25305, unless he or she has been approved for an exemption or reduction;

n. A parolee or probationer on parole from an offense against a child as defined in W. Va. Code §§61-8-12, 61-8B-1 et. seq. or 61-8D-1 et. seq. or similar convictions from other jurisdictions, must not live in the same residence as any minor child, visit with any minor child or have contact with the victim of the offense;

o. If being paroled from a sexual offense, a parolee or probationer must register with the West Virginia State Police as a sex offender within three (3) days of release in accordance with W. Va. Code §15-12-2;

p. A parolee or probationer shall allow his or her parole officer to visit his or her place of residence or employment for supervision purposes without obstruction;

q. Parolees or probationers shall submit to a search without warrant of his or her person, place of residency or motor vehicle by his or her parole officer for supervision purposes at any time during the parole period.

r. If being paroled from a child abuse or child neglect offense, as defined in West Virginia Code 61-8D-2, 2a, 3, 3a, 4 and 4a, or similar convictions from other jurisdictions, you must register with the West Virginia State Police within three (3) days of release in accordance with W. Va. Code §15-2C-2.

§90-2-3. Exemptions or Reductions of Supervision Fees.

3.1. The Division of Corrections may approve individual requests for exemption from or reduction of monthly supervision fees.

3.2. The parolee or probationer desiring an exemption from or reduction of the monthly supervision fee must submit a written request to his or her parole officer. The parole officer will forward the request along with his or her comments, personal knowledge of the individual's circumstances, and recommendation to Director of Parole Services within five (5)

working days of receipt of the request. The parolee or probationer's request must state whether he or she is applying for an exemption or a reduction and the amount of the reduction requested. The request must outline the parolee or probationer's current income or income prospects, liquid assets in his or her possession, fixed debts and obligations, including federal, state, and local taxes, medical expense, child care, transportation and expenses necessary for employment, age or physical infirmity of resident family members, and the consequences for the individual if the exemption or the reduction of the fee is denied. All exemptions or reductions are prospective unless otherwise specified.

3.3. The parolee or probationer's request will be evaluated and approved, or denied, by the Director of Parole Services or his or her designee. If denied, the parolee or probationer may submit an appeal of the decision to the Commissioner for final decision.

3.4. If the request for exemption or reduction is approved, the deciding official will notify the parolee or probationer that the exemption or reduction is only valid as long as the circumstances under which it was granted remain the same. The parolee or probationer must advise his or her parole officer when these circumstances change. In any event, the reduction or exemption expires four (4) months after approval and the parolee or probationer must reapply if another exemption or reduction is needed.

3.5. Parolees or probationers approved for an exemption may be required to perform twenty (20) hours of community service work per month by his or her parole officer in lieu of paying the monthly supervision fee.

§90-2-4. Sanctions for Willful Failure to Make Payment of Fee.

4.1. The following sanctions may be imposed for a parolee or probationer's willful failure to pay supervision fee(s):

a. A letter of warning to the delinquent parolee or probationer by his or her parole officer;

b. An additional twenty (20) hours of community service work per month as approved by the parolee or probationer's parole officer;

c. Placement on home confinement with electronic monitoring and the parolee or probationer paying a daily fee in an amount to be determined by the Commissioner of the Division of Corrections;

d. The parolee or probationer's parole officer may request a warrant for violation of the terms and conditions of parole or probation;

e. The Division of Corrections may institute civil collections proceedings.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Parole Supervision

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: Division of Corrections

Address: 112 California Avenue, Building 4, Room 300
Charleston, WV 25305

Phone Number: 304-558-2036 ext. 32 Email: butchl@mail.wvnet.edu

Fiscal Note Summary

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

There will be little, if any, impact upon the Division of Corrections in providing the required information to the West Virginia State Police.

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			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title:

Parole Supervision

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

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

There will be little, if any, impact upon the Division of Corrections in providing the required information to the West Virginia State Police.

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.

None.

Date: June 27, 2006

Signature of Agency Head or Authorized Representative

James W. Spears