

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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FILED

2004 JUN 23 P 3:08

Form #3 ■

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Division of Corrections TITLE NUMBER: 90

CITE AUTHORITY: WV Code 62-13-2

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

TITLE OF RULE BEING AMENDED: Parole Supervision

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.


Authorized Signature

**TITLE 90
LEGISLATIVE RULES
DIVISION OF CORRECTIONS**

**SERIES 2
PAROLE SUPERVISION**

FILED
2004 JUN 23 P 3:08WEST 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. -- July 1, 2004

§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 of ~~twenty dollars (\$20.00)~~ 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 ~~Department of Public Safety~~ 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.

§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 ~~ten (10)~~ twenty (20) hours of community service work 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.

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: June 23, 2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Division of Corrections
112 California Avenue, Bldg. 4, Room 300
Charleston, WV 25305
(304) 558-2036 ext. 32

LEGISLATIVE RULE TITLE: Parole Supervision

1. Authorizing statute(s) citation WV Code 62-13-2

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
May 19, 2004

b. What other notice, including advertising, did you give of the hearing?
None

c. Date of Public Hearing(s) *or* Public Comment Period ended:
Public Comment Period ended on June 21, 2004 at 9:00 a.m.

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

Attached _____ No comments received _____

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

June 23, 2004

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

West Virginia Division of Corrections
112 California Avenue, Bldg. 4, Room 300
Charleston, WV 25305

Attention: Loita Butcher (304) 558-2036 ext. 32 (304) 558-1820 (fax)

- 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)

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.

- b. Date of hearing or comment period:

Comment Period ended on June 21, 2004 at 9:00 a.m.

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

- d. Attach findings and determinations and reasons:

Attached None

90CSR2

TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS

SERIES 2
PAROLE SUPERVISION

SUMMARY

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

STATEMENT OF CIRCUMSTANCES

**TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS**

**SERIES 2
PAROLE SUPERVISION**

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

■
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Parole Supervision

Type of Rule: XX Legislative Interpretive Procedural

Agency: West Virginia Division of Corrections

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

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$336,000.00			336,000.00	\$336,000.00
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The fee structure and scale for charges to inmates, probationers and parolees should always be calculated to cover the costs of equipment, administration and allowances for indigent use. If this formula is followed throughout the length of the program, costs to state government should be offset by the revenues collected.

3. Objectives of These Rules:

Substantial savings will result in jail fees assuming a percentage of monitoring will be done on inmates who would otherwise be in jail or prison. An accurate estimate is not available without sufficient information.

Rule Title: Parole Supervision

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

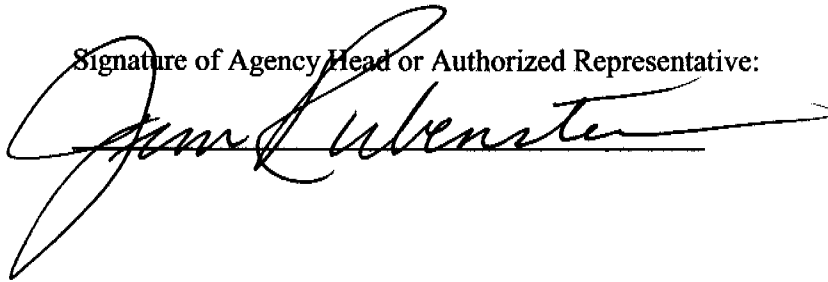
Substantial savings will result in jail fees assuming a percentage of monitoring will be done on inmates who would otherwise be in jail or prison. An accurate estimate is not available without sufficient information.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

C. Economic Impact on Citizens/Public at Large.

Date: June 23, 2004

Signature of Agency Head or Authorized Representative:

A handwritten signature in cursive script, appearing to read "Jim Lubenstein", is written over a horizontal line.