

Form #2

FILED

JUL 19 3 35 PM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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.

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LEGISLATIVE RULE
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§90-2-1 General

1.1 Scope -- 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.

1.2 Authority -- WV Code § 62-13-2

1.3 Filing date—

1.4 Effective date—

§90-2-2 Rules and Regulations.

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

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

b. A parolee 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 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 shall have suitable employment, remain gainfully employed, and support any dependents to the best of his or her ability;

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

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

g. A parolee 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 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 and report in person as directed by the parole officer;

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

j. A parolee shall not violate any municipal ordinances or the laws of this state, any other state, or the United States;

k. A parolee must abide by any special written requirements imposed upon him by his or her parole officer.

l. A parolee must pay a monthly supervision fee of twenty dollars (\$20.00) 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 as outlined below:

(1) Application for Exemption from or Reduction of Supervision Fee:

(a) The Division of Corrections Central Office may approve individual requests for exemption from or reduction of monthly supervision fees.

(b) The parolee 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 a District Supervisor within five (5) working days of receipt of the request. The parolee'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'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.

(c) The parolee's request will be evaluated and approved, or denied, by a District Supervisor. After review by central office staff, the parolee may submit an appeal of the decision to the Commissioner for final decision.

(d) If the request for exemption or reduction is denied, the deciding official will notify

the parolee and he or she shall immediately rectify any arrearage.

(e) If the request for exemption or reduction is approved, the deciding official will notify the parolee that the exemption or reduction is only valid as long as the circumstances under which it was granted remain the same. The parolee must advise his or her parole officer when these circumstances change. In any event, the reduction or exemption expires six (6) months after approval and the parolee must reapply if another exemption or reduction is needed.

(f) Parolees approved for an exemption must perform ten (10) hours of community service work as approved by his or her parole officer in lieu of paying the monthly supervision fee.

(2) Sanctions for Non-Payment of Fee. The following sanctions may be imposed for failure to pay supervision fee(s):

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

(b) The requirement to perform twenty (20) hours of community service work per month as approved by the parolee's parole officer.

(c) Placement on home confinement with electronic monitoring and the parolee paying a daily fee in an amount to be

determined by the Commissioner of the Division of Corrections.

(d) The parolee's parole officer may request a warrant for violation of parole.

(e) The Division of Corrections may pursue liquidation of the parolee's assets to pay supervision fee arrearage.

(m) A parolee on parole from an offense against a child as defined in West Virginia Code §§61-8-12, 61-8B-1 et seq. or 61-8D-1 et seq. or similar convictions from other jurisdictions, shall not live in the same residence as any minor child, visit with any minor child or have contact with the victim of the offense.

(n) If being paroled from a sexual offense, parolees must register with the Department of Public Safety as a sex offender within three (3) days of release in accordance with West Virginia Code §15-12-2.

(o) Parolees shall allow his or her parole officer to visit his or her place of residence or employment for supervision purposes without obstruction.

(p) Parolees 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.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Parole Supervision

Type of Rule: x Legislative Interpretive Procedural

Agency: West Virginia Division of Corrections

Address: 112 California Avenue, Bldg. 4, Room 300

Charleston, WV 25305

(304) 558-2036 fax (304) 558-5367

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$219,000.00			\$219,000.00	\$219,000.00
PERSONAL SERVICES	40,000.00				
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT	109,500.00				
OTHER	69,500.00				

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. An accurate estimate is not available without sufficient information.



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: July 19, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Division of Corrections, 112 California

Avenue, Building 4, Room 300, Charleston, WV 25305

(304) 558-2036 fax (304) 558-5367

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:

July 19, 2000

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 ends August 21, 2000 at 9:00 a.m.

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

Attached _____

No comments received _____

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. 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: July 19, 2000

Signature of Agency Head or Authorized Representative:

Paul Kirby

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

July 19, 2000

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

Loita Butcher, Executive Assistant, 112 California Avenue, Building 4, Room 300,
Charleston, WV 25305; (304) 558-2036 fax (304) 558-5367

Butchl@mail.wvnet.edu

- 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 ends August 21, 2000 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 _____