



FILED

OCT 18 8 45 AM '00

**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee**

OFFICE OF THE SECRETARY OF STATE  
SECRETARY OF STATE

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October 16, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Loita Butcher  
Corrections, WV Division of  
Capitol Complex  
Building 4, Room 300

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Parole Supervision, 90CSR2**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
  - (a) as originally filed
  - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Corrections  
Subject: Parole Supervision, 90CSR2  
Counsel: Rita A. Pauley  
Date: October 6, 2000

OFFICE OF THE CLERK  
SECRETARY OF STATE

OCT 11 8 30 AM '00

FILED

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PERTINENT DATES

Filed for public comment: July 19, 2000  
Public comment period ended: August 21, 2000  
Filed following public comment period: September 1, 2000  
Filed LRMRC: September 1, 2000  
Filed as emergency:

Fiscal Impact: The Agency anticipates expending \$219,000 on this program. The fees charged to the parolees are expected to cover the cost of the program.

ABSTRACT

This new legislative rule governs the supervision and conduct of inmates released on parole or probation under an agreement through the Interstate Compact.

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 contains the program requirements. This rule applies to all parolees and probationers supervised by the Division of Corrections. Parolees and probationers must sign a statement saying that they understand various terms and conditions of their release on parole and probation. This includes such things as reporting to their parole officer as required, notifying the parole officer of a change of residence or other circumstances, the

prohibition on behavior that is threatening to the safety of self, others or society, a prohibition on possessing, owning or carrying firearms or other unlawful weapons and consent to pay monthly supervision fee of \$20 per month.

Section 3 contains the requirements for receiving an exemption from or a reduction of supervision fee. Parolees and probationers may apply for this exemption or reduction in writing through their parole officer. The request for exemption or reduction must contain sufficient information detailing the individual's circumstances and financial condition to allow the district supervisor to make a decision on the request. If the parolee or probationer is dissatisfied with that decision, it may be appealed to the Commissioner. If the request for exemption or reduction is denied, the parolee is responsible for paying any arrearages that are accrued during the application process. The reduction or exemption expires 6 months after being granted. The parolee must reapply if another exemption or reduction is needed. Parolees and probationers who are approved for exemption must perform 10 hours of community service in lieu of paying the monthly supervision fee.

Section 4 contains sanctions for non-payment of supervision fees. If a parolee or probationer fails to pay the required supervision fee, a range of sanctions may be imposed including such things as a warning letter to rectify the delinquency, a requirement to perform 20 hours of community service, placement on home confinement with an electronic monitor or revocation of the person's parole.

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#### AUTHORITY

Statutory authority: W.Va. Code, §62-13-2(b), which provides, in part, as follows:

The commissioner shall prescribe rules for the supervision of probationers and parolees under his or her supervision and control and shall succeed to all administrative and supervisory powers of the board of probation and parole and the

authority of the board of probation and parole  
in those matters only.

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ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY  
AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE  
INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT,  
EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER  
CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A  
DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY  
ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED  
RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS  
IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS  
AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR  
MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has suggested technical modifications.