

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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Aug 16 2 27 PM '93

OFFICE OF 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/Chapters 62-13-2 and 62-12-17

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: PAROLE SUPERVISION - Add
Rules L and M to Current Approved Rules

IF NO, SERIES NUMBER OF NEW 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.



Nicholas J. Hun
Commissioner

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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Parole Supervision-Rule L

Type of Rule: Legislative Interpretive Procedural

Agency WV 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	\$ 192,000.00	\$	\$ 192,000.00	\$ 192,000.00	\$ 192,000.00
PERSONAL SERVICES	102,059.00		102,059.00	102,059.00	102,059.00
CURRENT EXPENSE	60,000.00		60,000.00	60,000.00	60,000.00
REPAIRS & ALTERNATIONS					
EQUIPMENT	29,941.00		29,941.00	29,941.00	29,941.00
OTHER					

2. Explanation of above estimates: 800 parolees/probationers x 20 x 12=\$192,000.00

I. Personal Services: 2 clerks x \$12,000.00= \$24,000.00 + \$8400.00= 36,400.00
 3 parole officers \$16,212.00=\$48,636.00 + \$17023.00= 65,659.00
 Total \$102,059.00

II. Current Expense: Cover cost of Drug/Alcohol contract Counselors 35,000.00
 Travel of Officers 15,000.00
 Drug Test Kits 10,000.00

III. Equipment: Mechanical restraints, weapons-firearms/chemicals, 29,941.00

3. Objectives of these rules: copy machines & typewriters Total \$192,000.00

Objectives: Reduce county jail population expense, reduce prison population overcrowding, reduce number of county jail prisoners awaiting transfer to State Penal System, provide greater supervision of parolees & probationers and increase drug/alcohol testing of parolees and probationers.

Rule Title: Parole Supervision Rule L

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Increase parole services budget without tax increase.

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

Increase supervision of probationer & parolees to provide greater public welfare and safety for citizens of the states.

C. Economic Impact on Citizens/Public at Large.

Increase parole services budget without tax increase.

Date: 13 JUL 93

Signature of Agency Head or Authorized Representative



DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Division of Corrections

LEGISLATIVE RULE TITLE: Parole Supervision - Rule L

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

2. a. Date filed in State Register with Notice of Hearing
July 14, 1993 - Comment Period

b. What other notice, including advertising, did you give of the hearing?

c. Date of Hearing(s) _____

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)

August 16, 1993

f. Name and phone number(s) of agency person(s) to contact for additional information:

Rita Stuart-----558-2036

Henry Lowery-----558-2036

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: _____

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 _____

This rule will amend the current legislative rule on parole supervision by adding a new supervision rule.

The intent of the 1993 Legislature in its amending of Chapter 62-13-2 was to allow for the collection of a monthly supervision fee for parolees/probationers under the supervision of the Division of Corrections (DOC). The Commissioner of Corrections is empowered by Chapter 62-13-2 to prescribe rules for the supervision of probationers and parolees under his supervision and, therefore, submits this proposed rule amendment for approval by the Legislature. The internal procedures by which the Division of Corrections will implement and administer this rule is outlined in the enclosed draft Policy Directive. The additional rule requiring a supervision fee is necessary for the DOC to supplement its budget to provide for the safety and welfare of the citizens. It will allow for the DOC to expand the parole office staff and purchase new equipment to provide more extensive supervision of parolees and probationers. Through the increase of parole officer staff and the purchase/lease of electronic monitoring equipment, the DOC feels the number of individuals released on parole will increase, thereby allowing the DOC to reduce its back-log of prisoners in county jails without creating an overall jeopardy to the public welfare and safety.

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TITLE 90
LEGISLATIVE RULES
DIVISION OF CORRECTIONS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 2
PAROLE SUPERVISION

§90-2-1. General

1.1 Scope - The legislative rule establishes rules and regulations governing the conduct of inmates released on parole and of parolees 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 - June 27, 1989

1.4 Effective Date - June 27, 1989

§90-2-2 Rules and Regulations

2.1 All parolees supervised by the parole authorities of the WV 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 has been paroled and report to his parole officer within twenty-four (24) hours unless otherwise instructed;
- b. A parolee must obtain written permission from his parole officer before he leaves the prescribed area of supervision to which he is paroled;
- c. A parolee must notify his parole officer of any change of residence or employment within seventy-two (72) hours;
- d. A parolee shall have to have suitable employment, remain gainfully employed, and support any dependents to the best of his ability;
- e. A parolee shall maintain behavior that does not threaten the safety of himself 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 seventy-two (72) hours to his parole officer each time he 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 parole officer of his 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 possession any illegal drugs or paraphernalia;
- 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 parole officer.
- l. A parolee must pay a monthly supervision fee of \$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, WV 25305.
- m. A parolee on parole from an offense against a child, as defined in WV Code 61-8-12, 61-8B or 61-8D or similar convictions from other jurisdictions, shall not live in the same residence as any minor child, nor exercise visitation with any minor child and shall have no contact with the victim of the offense.

WV DIVISION OF CORRECTIONS

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P-O-L-I-C-Y D-I-R-E-C-T-I-V-E

NUMBER:

DATE:

SUBJECT: SUPERVISION FEE
PROCEDURES FOR
PAROLEES AND
PROBATIONERS

REFERENCE: WV Code 62-13-2

SECTION I. GENERAL

1.01 Purpose

To establish who must pay a monthly supervision fee to the Division of Corrections and outline procedures for collecting and accounting for supervision fees.

1.02 Authority

This Policy Directive is promulgated by the Commissioner in accordance with the authority conferred by WV Code 62-13-2.

1.03 Applicability

West Virginia parolees under supervision in West Virginia and all parolees and probationers (except juveniles) accepted by West Virginia under the Interstate Compact will be required to pay a \$20 per month supervision fee unless an exemption from payment or a reduced fee is granted per the procedures within this Policy Directive.

1.04 Cancellation

This is a new Policy Directive. All previous written or verbal instructions are hereby cancelled.

SECTION II. PROCEDURE

2.01 Implementing Instructions

Prior to actual implementation, the following steps will be accomplished to implement these procedures:

1. The Commissioner will sign a letter outlining the start of this program; procedures for payment of the supervision fee; procedures for requesting a reduced fee or exemption from the fee; and sanctions to be taken for non-payment of the fee. This letter will be distributed to Parole Officers who will provide a copy to all affected personnel under their supervision (either mail or personal delivery is acceptable).
2. The West Virginia Conditions of Parole will be revised to include the supervision fee requirement.
3. The Interstate Compact Administrator will send a letter to all other state compact administrators advising of the West Virginia supervision fee.

4. A "form letter of warning" for non-payment of the supervision fee will be provided to all parole officers for their use.
5. A computer program will be designed to identify and account for fees collected and those still due.

2.02 Payment of Fee

1. The monthly supervision fee will be paid by either a certified bank check or money order made payable to the Division of Corrections (DOC) Supervision Fund. No other form of payment is authorized.
2. The monthly supervision fee will be mailed by the payee so as to arrive at the Central Office not later than the 10th of each month. The address for sending payment is:

West Virginia Division of Corrections
Supervision Fund
Building 4, Room 300
112 California Avenue
Charleston, West Virginia 25305-0280

2.03 Application for Exemption From or Reduction of Supervision Fee

1. The DOC Central Office may approve individual requests for exemption from or reduction of monthly supervision fees.

2. The individual desiring an exemption from or reduction of the monthly supervision fee must submit a written request to his/her parole officer. The parole officer will forward the request along with their comments, personal knowledge of the individual's circumstances, and recommendation to the Chief of Parole Services within five working days of receipt of the request. The individual's request must state whether he/she is applying for an exemption or a reduction and the amount of the reduction. The request must outline the individual's current income or income prospects; liquid assets in their possession; fixed debts and obligations, including federal, state, and local taxes; medical expenses; 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 reduced fee is denied.
3. The individual's request will be evaluated and approved or denied by either the Chief of Parole Services, Deputy Compact Administrator, or Deputy Commissioner for Programs. An appeal of their decision may be submitted to the Commissioner for final decision.

4. If the request for exemption or reduction is denied, the individual will be advised to immediately rectify any arrearage.
5. If the request for exemption or reduction is approved, the individual will be notified that the exemption/reduction is only valid as long as the circumstances under which it was granted remain the same. The individual must advise their parole officer when these circumstances change. In any event, the reduction/exemption expires four months after approval and the individual must reapply if another exemption/reduction is needed.
6. Individuals approved for an exemption must perform ten hours of community service work as approved by their parole officer in lieu of paying the monthly supervision fee.

2.04 Sanctions for Non-Payment of Fee

1. Letter of warning to delinquent individual by parole officer.
2. Twenty hours of community service work as approved by individual's parole officer.

3. Home confinement with electronic monitoring with the individual paying a fee of \$6.00 per day to the Division of Corrections Supervision Fund.
4. Parole Officer request warrant for violation of parole.
5. Liquidation of individual's assets to pay supervision fee arrearage.

2.05 Accounting/Control/Use of Funds
Collected

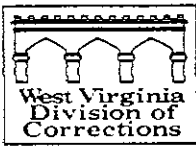
1. A computer program will be used by the Central Office to account for fees collected by individual and those still owed. A monthly report will be provided to regional directors and parole officers on/about the 24th of the month to identify personnel who have not paid the current month's fee. The program will, also, identify individuals who are exempt or approved for a reduced fee. A monthly report will, also, be provided the Chief of Parole Services, Deputy Compact Administrator, Chief of Finance Services, Deputy Commissioner of Programs, and the Commissioner which reflects funds collected for the current month, those delinquent for the current month, funds collected to date, and funds delinquent to date. All funds

collected will be placed into a special
revenue account in the state treasury.

APPROVED BY:

Nicholas J. Hun
Commissioner

Date



DEPARTMENT OF PUBLIC SAFETY
DIVISION OF CORRECTIONS
NICHOLAS J. HUN, COMMISSIONER



GASTON CAPERTON
GOVERNOR

MAJOR GENERAL JOSEPH J. SKAFF
SECRETARY

OFFICE OF THE COMMISSIONER
112 CALIFORNIA AVE.
STATE CAPITOL COMPLEX
CHARLESTON, WV 25305-0280
(304) 558-2036

August 16, 1993

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AUG 16 2 27 PM '93

FILED

The Honorable Ken Heckler
Secretary of State
Attn: Administrative Law Division
State Capitol Complex
Building 1, Room 157-K
Charleston, WV 25305

Dear Sir:

I am writing concerning our request of July 14, 1993, to have an emergency amendment to our existing Parole Supervision Rule, Title Number 90.

I am now requesting to withdraw our "Emergency Request" and ask that our request be processed as a "normal request for rule amendment." The comment period on the proposed rule amendment ended on August 13, 1993 and no comments were received.

Thank you for your assistance.

Sincerely,

Nicholas J. Hun, Commissioner
WV Division of Corrections

NJH:HL:sb

cc: File NH816
Henry Lower

SECRET
OFFICE OF THE SECRETARY

FILE NO. 53-111-23

1-11-57



State of West Virginia
OFFICE OF THE SECRETARY
DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY
P. O. Box 50155
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0155

Division of Corrections
Adjutant General's Office
Division of Engineering & Facilities/
State Armory Board
Military Awards Board
Division of Public Safety - WV State Police
Commission on Drunk Driving Prevention
Office of Emergency Services:
Emergency Services Advisory Council
Disaster Recovery Board
Emergency Response Commission
State Fire Commission/State Fire Marshal
Board of Probation and Parole
Regional Jail and Correctional Facility Authority
Office of Veterans' Affairs

Joseph J. Skaff
SECRETARY
(304) 558-2930

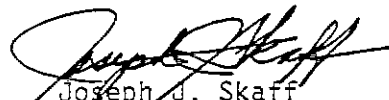
July 13, 1993

Nicholas J. Hun, Commissioner
Division of Corrections
Building 4, Room 300
112 California Avenue
Charleston, WV 25305

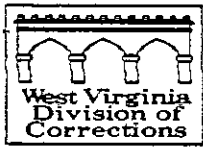
Dear Commissioner Hun:

I approve of your proposed changes to the West Virginia Parole Supervision Rules and Regulations as outlined in your July 12, 1993 letter.

Sincerely,


Joseph J. Skaff
Secretary

S/b



DEPARTMENT OF PUBLIC SAFETY
DIVISION OF CORRECTIONS
NICHOLAS J. HUN, COMMISSIONER



GASTON CAPERTON
GOVERNOR

MAJOR GENERAL JOSEPH J. SKAFF
SECRETARY

OFFICE OF THE COMMISSIONER
112 CALIFORNIA AVE.
STATE CAPITOL COMPLEX
CHARLESTON, WV 25305-0280
(304) 558-2036

July 12, 1993

Major General Joseph J. Skaff
Secretary/Department of Public Safety
State Capitol Complex
Box 2930
Charleston, WV 25305

Dear General Skaff:

I request your approval of the Division of Corrections proposals to change our Parole Supervision Rules and Regulation by adding rules "l" and "m" (see enclosure).

The addition of these rules is necessary to comply with two Statutes (Senate Bills 366 and 577) passed by the West Virginia Legislature on April 9 and 10, 1993; and will enhance our Parole Services operations as well as provide a safer and healthier environment for West Virginia children.

Sincerely,

Nicholas J. Hun, Commissioner
WV Division of Corrections

NJH:HL:sb

cc: Reading File
Henry Lowery