

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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MAY 9 1 21 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: West Virginia Division of Corrections TITLE NUMBER: 90

AMENDMENT TO AN EXISTING RULE: YES X, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Parole Supervision

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

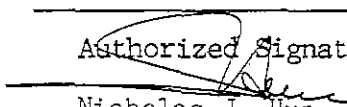
AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill No. 158

SECTION 64-6-1 (c), PASSED ON March 10, 1994

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: July 1, 1994

Authorized Signature


Nicholas J. Hun
Commissioner

PROMULGATION HISTORY

Rule filed for comment period on July 14, 1993.

Comment period for proposed rule ended on August 13, 1993.

Rule filed in State Register on August 16, 1993.

Rule voted on by Legislative Rule-Making Review Committee on October 19, 1993.

- Recommended approval with modifications.

Rule modified and re-filed in State Register on November 16, 1993.

Rule passed by Legislature on March 10, 1994.

Rule filed in State Register as "Final File" on May 9, 1994.

Rule put into effect on July 1, 1994.

FILED

TITLE 90
LEGISLATIVE RULES
DIVISION OF CORRECTIONS

Nov 16 9 45 AM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 2
PAROLE SUPERVISION

§90-2-1. General

1.1 Scope - The legislative rule establishes standards 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 Any parolee supervised by the parole authorities of the West Virginia Division of Corrections is 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 change of residence or employment within seventy-two (72) hours.
- 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 seventy-two (72) 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 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 or her by his or her 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, 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 the Chief of Parole Services within five 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 either the Chief of Parole Services, the Deputy Compact Administrator, or the Deputy Commissioner for Programs. 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 four months after approval and the parolee must reapply if another exemption or reduction is needed.
- (f) Parolees approved for an exemption must perform ten 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 hours of community service work per month as approved by the parolee's parole officer.
 - (c) Placement on home confinement with electronic monitoring with the parolee paying a fee of \$6.00 per day to the Division of Corrections Supervision Fund.
 - (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 WV 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.

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H. B. 4243

(By Delegates Gallagher, Douglas, Compton,
Huntwork, Burk and Faircloth
(Introduced January 31, 1994; referred to the
Committee on the Judiciary)

A BILL to amend and reenact section one, article six, chapter
sixty-four of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to authorizing the
division of corrections to promulgate legislative rules
relating to parole supervision.

Be it enacted by the Legislature of West Virginia:

That section one, article six, chapter sixty-four of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted, to read as follows:

ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF PUBLIC SAFETY TO
PROMULGATE LEGISLATIVE RULES.

§64-6-1. Division of corrections.

(a) The legislative rules filed in the state register on the
twentieth day of September, one thousand nine hundred
eighty-eight, modified by the commissioner of the department of

1 corrections to meet the objections of the legislative rule-making
2 review committee and refiled in the state register on the
3 thirteenth day of January, one thousand nine hundred eighty-nine,
4 relating to the commissioner of the department of corrections
5 (parole supervision), are authorized.

6 (b) The legislative rules filed in the state register on the
7 twentieth day of September, one thousand nine hundred
8 eighty-eight, modified by the commissioner of the department of
9 corrections to meet the objections of the legislative rule-making
10 review committee and refiled in the state register on the
11 thirteenth day of January, one thousand nine hundred eighty-nine,
12 relating to the commissioner of the department of corrections
13 (furlough programs for inmates under the custody and control of
14 the commissioner of the department of corrections), are
15 authorized.

16 (c) The legislative rules filed in the state register on the
17 sixteenth day of August, one thousand nine hundred ninety-three,
18 modified by the division of corrections to meet the objections of
19 the legislative rule-making review committee and refiled in the
20 state register on the sixteenth day of November, one thousand
21 nine hundred ninety-three, relating to the division of
22 corrections (parole supervision), are authorized.

23
24 NOTE: The purpose of this bill is to authorize the Division
25 of Corrections to promulgate legislative rules relating to parole
26 supervision.
27

SENATE BILL NO. 158

(By Senators Manchin, Anderson, Grubb, Macnaughtan
and Minard)

[Introduced January 31, 1994; referred to the
Committee on

Justice
THE JUDICIARY

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10 A BILL to amend and reenact section one, article six, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of corrections to promulgate legislative rules
14 relating to parole supervision.

15 **Be it enacted by the Legislature of West Virginia:**

16 That section one, article six, chapter sixty-four of the code
17 of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 **ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF PUBLIC SAFETY TO**
20 **PROMULGATE LEGISLATIVE RULES.**

21 **§64-6-1. Division of corrections.**

22 (a) The legislative rules filed in the state register on the
23 twentieth day of September, one thousand nine hundred
24 eighty-eight, modified by the commissioner of the department of

1 corrections to meet the objections of the legislative rule-making
2 review committee and refiled in the state register on the
3 thirteenth day of January, one thousand nine hundred eighty-nine,
4 relating to the commissioner of the department of corrections
5 (parole supervision), are authorized.

6 (b) The legislative rules filed in the state register on the
7 twentieth day of September, one thousand nine hundred
8 eighty-eight, modified by the commissioner of the department of
9 corrections to meet the objections of the legislative rule-making
10 review committee and refiled in the state register on the
11 thirteenth day of January, one thousand nine hundred eighty-nine,
12 relating to the commissioner of the department of corrections
13 (furlough programs for inmates under the custody and control of
14 the commissioner of the department of corrections), are
15 authorized.

16 (c) The legislative rules filed in the state register on the
17 sixteenth day of August, one thousand nine hundred ninety-three,
18 modified by the division of corrections to meet the objections of
19 the legislative rule-making review committee and refiled in the
20 state register on the sixteenth day of November, one thousand
21 nine hundred ninety-three, relating to the division of
22 corrections (parole supervision), are authorized.

23

24 NOTE: The purpose of this bill is to authorize the Division
25 of Corrections to promulgate legislative rules relating to parole
26 supervision.

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1 Strike-throughs indicate language that would be stricken from
2 the present law, and underscoring indicates new language that
3 would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 15, 1994

Rita Stuart
Corrections
Bldg. 4, Rm. 300
112 California Ave.
Charleston, WV 25305

SB 158 authorizing, **Title 90, Series 2, Parole Supervision**, passed the Legislature on **March 10, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 158, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 158** section **64-6-1(c)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division