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KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #4

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Corrections TITLE NUMBER: 90

CITE AUTHORITY W. Va. Code § 25-1-13

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☐

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: _____

Furlough Program for Adult Inmates

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

Major General Joseph J. Skaff
Secretary, Department of Military
Affairs & Public Safety

TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS

SERIES 3
FURLOUGH PROGRAM FOR ADULT INMATES

§90-3-1. General.

- 1.1. Scope - This legislative rule establishes the furlough program for inmates under the custody and control of the West Virginia Division of Corrections.
- 1.2. Authority - W.Va. Code §25-1-13
- 1.3. Filing Date -
- 1.4. Effective Date -
- 1.5. Repeal and Replace - This rule repeals and replaces Furlough Programs For Inmates Under The Custody And Control Of The Commissioner Of The Division Of Corrections, 90 CSR 3, effective January 13, 1989.

§90-3-2. Definitions.

- 2.1. Classification - A process for determining the appropriate security placement and special needs of the inmate population in order to provide a safe, secure and humane correctional system for the public, staff and inmates.
- 2.2. Correctional Classification Profile (CCP) - A scientific system for the classification of adult inmates developed in accordance with the American Correctional Association Standards. The CCP is a grid system which incorporates those factors known to be important in determining inmates' institutional assignments, identifying inmates' programmatic and service needs as well as public (security) and institutional (custody) risks. The CCP takes into consideration such things as the current offense, level of violence of the offense, institutional violence, escape history, mental and physical health and disciplinary rule violations. Inmates are classified on a scale of I to V. Level V is the most severe and restrictive and level I is the least restrictive.
- 2.3. Furlough - An authorized unescorted absence from actual confinement within a correctional center for a specific

purpose, to a specific place, under specific conditions, and for a specific period of time.

- 2.4. Unescorted absence - An approved absence from the correctional center during which the inmate is not accompanied by Correctional Officer.

§90-3-3. Applicability.

- 3.1. This rule is applicable to all Division of Corrections correctional centers which house adult inmates.

§90-3-4. Eligibility for furlough consideration.

- 4.1. The Commissioner of Corrections may grant furloughs when appropriate for medical or psychiatric treatment, substance abuse treatment, to strengthen family relationships or other similar reasons.
- 4.2. This rule will normally be applicable to inmates whose overall custody classification is I (Community) or II (Minimum) as determined by the WV Corrections Classification Profile (CCP).
- 4.3. Furlough for inmates whose custody classification exceed II requires a written recommendation from the Chief Executive Officer of the requesting correctional center and specific approval of the Commissioner of Corrections or his designee.

§90-3-5. Restrictions, conditions and criteria.

- 5.1. An inmate may not be granted a furlough if Division of Corrections officials believe that he or she poses a threat to him or herself or others, may become involved in criminal activity while on furlough, poses a risk to the victim of the crime or crimes for which committed or poses a risk to the community in general.
- 5.2. In order to eligible for a furlough, an appropriately classified inmate must have served at least thirty (30) days in the correctional center and have had no finding of misconduct during the preceding six (6) months.
- 5.3. Inmates approved for furloughs are eligible to receive furloughs as follows:
 - a. After thirty (30) days in the center one (1) 24 hour furlough.

- b. After sixty (60) days in the center two (2) 24 hour furloughs.
- c. After ninety (90) days in the center forty-eight (48) hours of furlough each week.
- d. Special furloughs granted by the Commissioner for medical, psychiatric or substance abuse treatment will be for a maximum of thirty (30) days unless the treating physician or psychiatrist requests, as a medical necessity, additional treatment time.

5.4. Furlough Requests; Contract; Notification of Counties.

- 5.4.1. The Warden, Superintendent, or Administrator of each correctional center shall establish the requirements necessary for requesting a furlough, and shall designate a Furlough Officer to review and handle the requests.
- 5.4.2. Reporting requirements, rules, regulations, and special conditions shall be in the form of a contract. The contract shall inform the inmate that his or her conduct will be monitored by the center while he or she is on furlough.
- 5.2.3. Upon receiving the first valid request for a furlough from an eligible inmate, the Furlough Officer shall notify in writing the Prosecuting Attorney, Sheriff, and Parole Officer in the original sentencing county, as well as the Sheriff and Parole Officer in the county to which furlough is requested, if different, that the inmate may be eligible to receive furlough privileges beginning on a particular date.

S90-3-6. Procedure.

- 6.1. The Division may cancel an inmate's furlough for any violation of the terms and conditions of the furlough.
- 6.2. The Division may discipline inmates who violate the terms and conditions of a furlough in accordance with Division of Corrections Policy Directive 670.00 "Discipline of Adult Inmates".
- 6.3. The Division shall report to the appropriate law enforcement authority for prosecution under the applicable statute any violation of conditions of a furlough which is a violation of Federal or State Law .

- 6.4. Violation of Contract Conditions of Furlough: Any inmate who fails to timely return from a furlough, as provided for in the furlough contract or upon the order of a corrections official, shall be considered to have escaped. Corrections officials will report the escape to the proper authorities and charge the inmate under the applicable statute.

S90-3-7. Exceptions.

- 7.1. The Commissioner of Corrections may, for good cause shown, grant exceptions to this rule.
- 7.2. Extended furloughs may be granted by the center upon special request of the inmate or his or her family in instances such as the injury or illness of the inmate or a member of his or her immediate family or extreme, adverse weather conditions. The center shall document the circumstances which require that the furlough be extended.
- 7.3. Special time frames may be designated by the Central Office for specific holidays.
- 7.4. Any special exception that is granted shall not count against the normal duration or frequency criteria for furloughs applicable to that inmate.

S90-3-8. Notification of Sentencing County (Work Release Inmates).

- 8.1. Within one week of any inmate's arrival at a Work Release Center, the Administrator shall provide, in writing, to the Prosecuting Attorney, Sheriff, and Parole Officer of the sentencing county the following information:
- a. That the inmate has been assigned to a community-based program;
 - b. That the inmate may be eligible to receive furlough privileges beginning on a particular date; and
 - c. That the inmate's stay at the Center will be for a particular period of time contingent upon parole eligibility and the inmate's conduct.



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Nov 15 10 06 AM '94

West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room M-152, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

Senator Joe Manchin, III, Co-Chair
Delegate Brian A. Gallagher, Co-Chair

November 14, 1994

Debra A. Graham, Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Major General Joseph Skaff, Secretary
Division of Corrections
112 California Avenue, Room 300
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Furlough Program for Inmates Under the Custody and
Control of the Commissioner of Corrections

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 X
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 rule be withdrawn; a statement of
reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State
Register and with the agency proposing the rule.

cc: Rita A. Stuart