

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Division of Corrections TITLE NUMBER: 90

AMENDMENT TO AN EXISTING RULE: YES___, NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

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

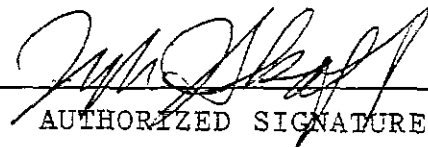
TITLE OF RULE BEING PROPOSED: Furlough Program for Adult Inmates

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

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 88

SECTION 64-6-1(b), PASSED ON March 10, 1995

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: May 22, 1995


AUTHORIZED SIGNATURE

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

Division of Corrections

Legislative Rule

Title 90 Series 3

Promulgation History

The West Virginia Legislature created West Virginia Code § 25-1-13 in 1988 to provide authorization for the Division of Corrections to temporarily release inmates committed to the Commissioner's custody for the purpose of rehabilitative programming. The Division filed the original version of 90CSR3 in 1989 to implement this legislation.

The current submission is to repeal and replace the 1989 rule. The new rule is more professionally rigorous in the selection criteria for participating inmates.

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.

§90-3-6. 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.

§90-3-7. 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.

§90-3-8. 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.

Bill-Corrections, Furlough

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H. B. 2145

(By Delegates Gallagher, Douglas, Compton,
Linch, Faircloth and Riggs)

(Introduced January 23, 1995; referred to the
Committee on the Judiciary)

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 furlough programs for inmates under the custody
15 and control of the commissioner of the division of
16 corrections.

17 Be it enacted by the Legislature of West Virginia:

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

21 ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF MILITARY AFFAIRS AND
22 PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.

23 §64-6-1. Division of corrections.

1 (a) The legislative rules filed in the state register on the
2 twentieth day of September, one thousand nine hundred
3 eighty-eight, modified by the commissioner of the department of
4 corrections to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 thirteenth day of January, one thousand nine hundred eighty-nine,
7 relating to the commissioner of the department of corrections
8 (parole supervision), are authorized.

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

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

1 (d) The legislative rules filed in the state register on the
2 fifth day of August, one thousand nine hundred ninety-four,
3 modified by the division of corrections to meet the objections of
4 the legislative rule-making review committee and refiled in the
5 state register on the twenty-second day of November, one thousand
6 nine hundred ninety-four, relating to the division of corrections
7 (furlough programs for inmates under the custody and control of
8 the commissioner of the division of corrections), are authorized.

9

10 NOTE: The purpose of this bill is to authorize the Division
11 of Corrections to promulgate legislative rules relating to
12 furlough programs for inmates under the custody and control of
13 the Commissioner of the Division of Corrections.

14

15 Strike-throughs indicate language that would be stricken from
16 the present law, and underscoring indicates new language that
17 would be added.

SENATE BILL NO. _____89

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

[introduced January 20, 1995; referred to the Committee on the Judiciary]

90-3

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15 Strike-throughs indicate language that would be stricken from
16 the present law, and underscoring indicates new language that
17 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

Telephone: (304) 558-6000
Corporations: (304) 558-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

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 28, 1995

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

SB 88 authorizing, Title 90, Series 3, Furlough programs for inmates under the custody and control of the Commissioner of the Dept. of Corrections, passed the Legislature on March 10, 1995. It is was signed by the Governor on March 23, 1995.

You have sixty (60) days after the Governor signs SB 88, 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 88** section **64-6-1(b)**. 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: YOUR AGENCY MUST SUBMIT A CLEAN COPY OF THE LEGISLATIVE RULE ON DISK, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. THE DISK MUST BE ON A WORD PERFECT (5.1 OR 5.2 VERSION) OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM 3 1/2" DOUBLE DENSITY DISK. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL ENABLE 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, STRIKE-THROUGHS AND HEADERS/FOOTERS 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

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

FILED

WILLIAM H. HARRINGTON
Chief of Staff

APR 19

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

(Plus all the volunteer
help we can get)

TO: Jill Jerabeck

AGENCY: Corrections

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 1, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 3 TITLE: 90 Corrections

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: William F. Whyte

TITLE OF PERSON SIGNING: Deputy Commissioner - Operations

DATE: April 18, 1996

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.