

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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1988 JUL 26 PM 2:33
OFFICE OF THE SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Department of Corrections TITLE NUMBER: 90

RULE TYPE: Legislative; CITE AUTHORITY WV Code § 25-1-13

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 programs for inmates under
the custody and control of the Commissioner of the Depart-
ment of Corrections.

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 26, 1988 AT 4:30 pm

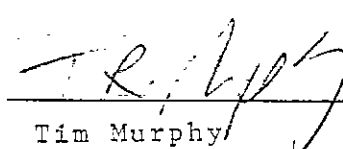
ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

WV Department of Corrections

112 California Avenue

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Tim Murphy

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SUMMARY OF PROPOSED 90 CSR 3

These regulations establish eligibility criteria, application and approval procedures, notice requirements and violation procedures regarding the inmate furlough program. Furloughs permit selected state inmates to leave a prison facility on his own for a specified period of time for purposes such as looking for work, visiting family, etc.

TITLE 90
LEGISLATIVE RULE
DEPARTMENT OF CORRECTIONS

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SERIES 3
FURLOUGH PROGRAMS FOR INMATES UNDER THE CUSTODY AND CONTROL OF
THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS

§ 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 Department of Corrections.

1.2. Authority. - W. Va. Code § 25-1-13 (1988 Supp.).

1.3. Filing Date. - July 26, 1988.

1.4. Effective Date. - July 26, 1988.

§ 90-3-2. Definitions.

2.1. Furlough. - An authorized absence from actual confinement within an institution for a specific purpose, to a specific place, under specific conditions, and for a specific time.

2.2. Maintenance. - Any inmate on special job assignments, e.g. Anthony Center of Pruntytown; cooks, maintenance, cadre, road crews, etc. at a work release center, or any other special, out-of-institution assignment so designated.

§ 90-3-3. Applicability.

3.1. This regulation is applicable to all Department of Corrections facilities which house adult inmates.

§ 90-3-4. Eligibility for furlough consideration; frequency and duration of furloughs.

4.1. West Virginia Penitentiary. - Inmate must be parole eligible; furlough may not exceed 72 hours (including travel time) and may be granted no more than once every 6 months.

4.2. Huttonsville Correctional Center. - Inmate must have served 6 months at Huttonsville Correctional Center, must be within 2 years of his initial parole eligibility date and must have no finding of misconduct during the preceding 6 months; furlough may not exceed 72 hours (including travel time) and may be granted no more than once every three months.

4.3. Maintenance. - Inmate must have served 6 months in Department of Corrections custody, must be within 2 years of initial parole eligibility date, must have no finding of misconduct during the preceding 6 months, and must have been on maintenance status at least 90 days (30 days of which have been at the current place of assignment); furlough may not exceed 52 hours (including travel time) and may be granted no more than once every month.

4.4. Work Release Centers. - Inmate must have served at least 30 days in the work release center (on either work release or maintenance status) and have had no finding of misconduct during the preceding 6 months; furlough may not exceed 52 hours and may be granted no more than once every other week.

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

5.1. An inmate may not be granted a furlough if:

- a. The inmate is identified with large scale organized criminal activity.
- b. The inmate has serious emotional or personality problems.
- c. The inmate has a pending felony detainer.
- d. The inmate poses a clear and present danger to the community.
- e. Community sentiment is sufficiently adverse to endanger the rehabilitative potential of the furlough.

5.2. Furlough Requests; Contract; Notification of Counties.

- a. The Warden, Superintendent, or Administrator shall establish such requirements necessary for the requesting of a furlough, and shall designate a Furlough Officer to review and handle such requests. Exceptions may be made with the approval of the Commissioner.
- b. Reporting, requirements, rules, regulations, and special conditions shall be in the form of a contract. The contract shall inform the furloughee that his conduct will be monitored.
- c. 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. Filing Request. - The inmate shall file a request for a furlough at least 30 days in advance of the date being requested. A separate, individual filing shall be necessary for each furlough requested. Such requests shall be filed in accordance with the requirements developed pursuant to § 5-2(a).

6.2. Review. - The furlough request shall be received by the furlough officer. Those requests which meet the criteria outlined in § 5.1 shall be forwarded to the Department's Central Office at least 20 days prior to the date of the proposed furlough.

6.3. Furlough Approval. - Every effort shall be made to return the furlough request from the Central Office to the Furlough Officer at least 10 days prior to the date of the proposed furlough.

6.4. Furlough Contract. - Upon receipt of approval by the Central Office, the contract called for in § 5.2(b) shall be

completed by the Furlough Officer and signed by the inmate; final transportation arrangements shall be made.

6.5. Violation of Contract Conditions of Furlough

- a. If a violation of a condition of any furlough is charged by a monitoring officer which would constitute a crime, the officer shall arrange for the immediate return of the inmate to the institution or to the nearest jail.
- b. Any violation of a condition of a furlough shall constitute an offense, the penalty for which may be revocation of furlough in addition to any other penalties prescribed by Policy Directive 670.00 for those furlough violations which constitute specific offenses thereunder. Disciplinary hearings on the alleged infraction will be held in accordance with the provisions of Policy Directive 670.00, Section 4.
- c. Any inmate failing to return to the institution or to a special assignment location on time as required by the agreement or upon order of a monitoring officer, Warden, Superintendent, or Administrator, shall be considered to have committed an evasion from confinement or escape and is subject to arrest and prosecution for escape as well as disciplinary action pursuant to Policy Directive 670.00.

§ 90-3-7. Exceptions.

7.1. Emergency furloughs may be granted directly by the Warden, Superintendent, or Administrator, with telephone notification to the Central Office, for purposes of visiting critically ill family members or due to the death of a family member.

7.2. Extended furloughs may be granted upon special request.

7.3. Special time frames may be designated by the Central Office for specific holidays.

7.4. The Commissioner or his designee may make special exceptions for good cause.

7.5. Any special exception that is granted shall not count against the normal duration or frequency criteria applicable to that inmate.

§ 90-3-8. Notification of Sentencing County (Work Release Inmates).

8.1. Within one week of an inmate's arrival at a Work Release Center, the Administrator shall notify, in writing, 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.
- c. That the inmate's stay at the Center will be for a particular period of time contingent upon parole requirements and conduct.