

Form #4

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

William R. Wythe

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TITLE 90
LEGISLATIVE RULE
DEPARTMENT OF CORRECTIONS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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. -

1.4. Effective Date. -

§ 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 period of time.

2.2. Maintenance. - Any inmate on special job assignments, e.g. Anthony Center or 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. - In order to be eligible for furlough an inmate must have served his minimum sentence, must have had no finding of misconduct within the preceding twelve months, and must be classified as minimum or trusty status with outside clearance. A 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. - In order to be eligible for a furlough, an 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 and must have a custody rating of Overall I or Overall II; a furlough may not exceed 72 hours (including travel time) and may be granted no more than once every three months.

4.3. Maintenance. - In order to be eligible for a furlough, an inmate must have served 6 months in Department of Corrections custody, must be within 2 years of his 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); the furlough may not exceed 52 hours (including travel time) and may be granted no more than once every month.

4.4. Work Release Centers. - In order to be eligible for a furlough, an 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; the 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.
- f. Prison officials have reasonable suspicion that the inmate intends to become involved in illicit behaviors.
- g. Prison officials have reasonable cause to believe that the inmate, while on furlough, may cause

emotional stress to a member of his own family, the victim or member of the victims family or any witnesses involved in his case.

h. The inmate is a serious sex offender.

5.2. Furlough Requests; Contract; Notification of Counties.

- a. The Warden, Superintendent, or Administrator shall establish any 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 inmate that his conduct will be monitored while he is on furlough.
- 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 Section 5.2(a) of this rule.

6.2. Review. - The furlough request shall be received and reviewed by the furlough officer. Those requests which meet the criteria 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/Disapproval. - 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 Section 5.2(b) of this rule 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 inmate disciplinary regulations for those furlough violations which constitute specific offenses thereunder. Disciplinary hearings on the alleged infraction will be held in accordance with the provisions of inmate disciplinary regulations.
- 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 inmate disciplinary regulations.

§ 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 members of the inmate's immediate family, due to the death of an immediate family member, or to attend special appointments for specialized medical care/treatments as deemed necessary by prison medical staff.

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 for furloughs 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.



FILED

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WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Room M-438, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

OFFICE OF THE SECRETARY OF STATE
SECRETARY OF STATE

Senator Larry A. Tucker, Co-Chairman
Delegate Thomas A. Knight, Co-Chairman

December 6, 1988

M. E. Mowery, Counsel
Debra A. Graham, Associate Counsel
Marie Nickerson, Receiving Clerk

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: A. V. Dodrill, Jr., Commissioner
Department of Corrections
112 California Avenue
State Capitol Complex
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Furlough programs for inmates under the custody and
control of the Commissioner of the Department 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: Timothy R. Murphy, Esq.