

## Form #3

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

  
Authorized Signature

**90CSR5**

**TITLE 90**

**LEGISLATIVE RULE**

**DIVISION OF CORRECTIONS**

**SERIES 5**

**RECORDING OF INMATE TELEPHONE CALLS**

**SUMMARY**

**This legislative rule establishes the policy and delineates guidelines for the monitoring, recording, record keeping and disclosure of inmate telephone calls under the jurisdiction of the Commissioner of the West Virginia Division of Corrections.**

TITLE 90  
LEGISLATIVE RULES  
DIVISION OF CORRECTIONS

SERIES 5  
RECORDING OF INMATE TELEPHONE CALLS

FILED

2009 JUN 16 PM 1:51

OFFICE WEST VIRGINIA  
SECRETARY OF STATE**§90-5-1. General.**

1.1. Scope. -- This legislative rule establishes the policy and delineates guidelines for the monitoring, recording, record keeping and disclosure of inmate telephone calls.

1.2. Authority. -- W. Va. Code §25-1-17.

1.3. Filing Date. -- ~~May 22, 1995~~ May 6, 2009

1.4. Effective Date. -- ~~May 22, 1995~~ May 6, 2009.

**§90-5-2. Applicability.**

2.1 All telephones for use by inmates ~~on the inmate "pay phone" system~~ shall be connected to a secure, automated, digital recording module which shall be capable of identifying the inmate making the call, the number called and disabling recording during calls to the inmate's attorney. ~~Such system may be similar to those not unlike that utilized with municipal "911 emergency systems". Except for calls from an inmate to his attorney, all~~ All inmate telephone calls may be monitored and will be automatically recorded; not live monitored. All recordings shall be retained for at least three (3) years and may only be disclosed as set forth herein, for record keeping purposes for potential investigations;

2.2 The computerized telephone system shall generate a report of the telephone usage a minimum of once a month;

**§90-5-3. Procedure.****3.1 Notification.**

3.1.1. Division of Corrections will notify all inmates in writing that their telephone conversations may be recorded and disclosed in accordance with this rule;

3.1.2. Each correctional center shall prominently place a notice on, or immediately near, any telephone on which recording may take place;

**3.2 Recording Method.**

3.2.1. An automated digital recording device, similar in concept and design to those used on "911 emergency systems", shall be installed in a secure, limited access location, and connected to the inmate telephone lines.

3.2.2. All inmate telephone calls, except those made to the inmate's attorney, shall be automatically recorded.

3.2.3. The warden of each institution shall designate an individual or individuals who shall be charged with monitoring the telephone system and reviewing recorded calls.

3.2.4. The contents of inmates' telephone calls may be disclosed to an appropriate law-enforcement agency pursuant to an order of a court or administrative tribunal when disclosure is necessary for the investigation, prevention or prosecution of a crime or to safeguard the orderly operation of the correctional institution.

3.2.5. Disclosure may be made in civil or administrative proceedings pursuant to an order of a court of an administrative tribunal when the disclosure is: (A) Necessary to safeguard and protect the orderly operation of the correctional institution; or (B) Necessary to protect persons from physical harm or the threat of physical harm.

**3.3 Security.**

3.3.1. The general public shall, to the extent possible, be protected from unwanted inmate calls.

## APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Recording Inmate Telephone Calls

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Division of Corrections

Address: 112 California Avenue  
Building 4, Room 300  
Charleston, WV 25305

Phone Number: (304) 558-2036 ext. 32 Email: butchl@mail.wvnet.edu

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There is no additional funding necessary for the implementation of this legislation.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

| FISCAL YEAR                 |                                           |                                        |                                           |
|-----------------------------|-------------------------------------------|----------------------------------------|-------------------------------------------|
| Effect of Proposal          | Current<br>Increase/Decrease<br>(use "-") | Next<br>Increase/Decrease<br>(use "-") | Fiscal Year<br>(Upon Full Implementation) |
| 1. Estimated Total Cost     |                                           |                                        |                                           |
| Personal Services           |                                           |                                        |                                           |
| Current Expenses            |                                           |                                        |                                           |
| Repairs & Alterations       |                                           |                                        |                                           |
| Assets                      |                                           |                                        |                                           |
| Other                       |                                           |                                        |                                           |
| 2. Estimated Total Revenues |                                           |                                        |                                           |

Rule Title: \_\_\_\_\_

Rule Title:

Recording Inmate Telephone Calls

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: May 4, 2009

Signature of Agency Head or Authorized Representative

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## QUESTIONNAIRE

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: June 16, 2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Division of Corrections  
112 California Avenue, Building 4 Room 300  
Charleston, WV 25305  
Attention: Loita Butcher

LEGISLATIVE RULE TITLE: Recording of inmate telephone calls

1. Authorizing statute(s) citation WV Code 25-1-17

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
May 6, 2009

b. What other notice, including advertising, did you give of the hearing?  
None.

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
June 4, 2009 at 9:00 a.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

June 16, 2009

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Loita Butcher, Executive Assistant  
WV Division of Corrections  
112 California Avenue, Building 4, Room 300  
Charleston, WV 25305  
(304) 558-2036 Ext. 32  
(304) 558-5367 (fax)  
butchl@mail.wvnet.edu

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

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d. Attach findings and determinations and reasons:

Attached 

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