

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Division of Corrections TITLE NUMBER: 90

CITE AUTHORITY W.Va. Code §25-1-17

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: Series 5

TITLE OF RULE BEING PROPOSED: Recording of Inmate Telephone Calls

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

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

4.00

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Recording of Inmate Telephone Calls

Type of Rule: XX Legislative Interpretive Procedural

Agency Division of Corrections

Address 112 California Avenue, Room 300
Charleston, WV 25305
Phone: 558-2036

1. Effect of Proposed Rule NO FISCAL IMPACT

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

3. Objectives of these rules:

Rule Title: Recording of Inmate Telephone Calls

4. Explanation of Overall Economic Impact of Proposed Rule.

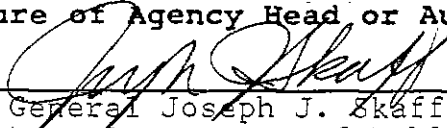
A. Economic Impact on State Government.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

C. Economic Impact on Citizens/Public at Large.

Date: August 4, 1994

Signature of Agency Head or Authorized Representative


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

DATE: August 4, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Division of Corrections

LEGISLATIVE RULE TITLE: Recording of Inmate Telephone Calls

1. Authorizing statute(s) citation W.Va. §25-1-17

2. a. Date filed in State Register with Notice of Hearing

June 15, 1994

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of Hearing(s) N/A

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

Attached _____ No comments received XX

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

August 5, 1994

f. Name and phone number(s) of agency person(s) to contact for additional information:

Rita A. Stuart 558-2036

Division of Corrections

112 California Avenue

Charleston, WV 25305

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.

N/A

b. Date of hearing: N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

TITLE 90
LEGISLATIVE RULE
DEPARTMENT OF CORRECTIONS

SERIES 5
RECORDING OF INMATE TELEPHONE CALLS

BRIEF SUMMARY

The purpose of this Legislative Rule is to provide the necessary guidelines for the West Virginia Division of Corrections to implement W.Va. Code §25-1-17. A means of recording telephone calls placed by inmates is provided that allows for the establishment of a permanent record for potential investigative purposes, while maintaining confidentiality.

TITLE 90
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SUMMARY OF RULE

The purpose of this Legislative Rule is to provide the necessary guidelines for the West Virginia Division of Corrections to implement W.Va. Code §25-1-17. A means of recording telephone calls placed by inmates is provided that allows for the establishment of a permanent record for potential investigative purposes, while maintaining confidentiality.

TITLE 90
LEGISLATIVE RULE
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RECORDING OF INMATE TELEPHONE CALLS

§90- -1. General.

- 1.1 Scope - this legislative rule establishes the policy and delineates guidelines for the recording of inmate telephone calls.
- 1.2 Authority - W.Va. Code §25-1-17
- 1.3 Filing Date -
- 1.4 Effective Date -

§90- -2. Applicability.

- 2.1. All telephones on the inmate "pay phone" system shall be connected to a secure, automated, digital recording module not unlike that utilized with municipal "911 emergency systems." All inmate telephone calls will be automatically recorded, not live monitored, for record keeping purposes for potential investigations.

§90- -3. Procedure.

- 3.1. Notification.
 - 3.1.1. All inmates shall be notified in writing that their telephone conversations may be recorded and disclosed.
 - 3.1.2. A notice shall be prominently placed 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 shall be automatically recorded.

3.3. Access to Recordings.

3.3.1. Only the Commissioner of the Division of Corrections, and the Commissioner's designee(s), shall have access to recordings of inmate telephone calls.

3.3.2. Access shall be through a password secured computer terminal.

3.3.3. Individual telephone calls and the recorded conversation shall be accessed, listened to, re-recorded, or transcribed for investigative purposes only. Such an investigation must be assigned or approved by the Commissioner or the Commissioner's designee(s).

3.3.4. A log shall be kept of all such telephone call recordings that are accessed.

§90- -4. Disclosure.

4.1. The contents of a telephone conversation shall be disclosed only if the disclosure is:

4.4.1. Necessary to safeguard the orderly operation of the correctional institution;

4.4.2. Necessary for the investigation of a crime;

4.4.3. Necessary for the prevention of a crime;

4.4.4. Necessary for the prosecution of a crime; or

4.4.5. Required by an order of a court of competent jurisdiction.

§90- -5. Period of Maintenance.

5.1. All Recordings of telephone conversations, unless being disclosed in accordance with Section IV, shall be destroyed within twelve months after the recording.

§90- -6. Attorney - Inmate Telephone Calls.

- 6.1. To safeguard attorney-client privilege, a separate telephone line shall be made available. No conversation between an inmate and an attorney shall be monitored, intercepted, recorded or disclosed in any manner.