

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

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WEST VIRGINIA  
SECRETARY OF STATE

Form #6

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

AGENCY: West Virginia Division of Corrections TITLE NUMBER: 90

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: Monitoring Inmate Mail

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

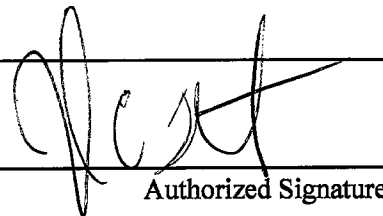
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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

AUTHORIZATION IS CITED IN (house or senate bill number) HB4081

SECTION 64-6-3(b), PASSED ON March 11, 2010

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: April 5, 2010

  
Authorized Signature

**TITLE 90  
LEGISLATIVE RULES  
DIVISION OF CORRECTIONS**

**SERIES 7  
MONITORING INMATE MAIL**

**§90-7-1. General.**

1.1. Scope. -- This legislative rule establishes the policy and delineates guidelines for the monitoring, reading and copying both incoming and outgoing mail in the adult correctional centers under the jurisdiction of the Commissioner of the West Virginia Division of Corrections.

1.2. Authority. -- W. Va. Code §25-1-18.

1.3. Filing Date. -- May 6, 2009

1.4. Effective Date. -- April 5, 2010.

**§90-7-2. Definitions.**

2.1. "Attorney" means a person admitted and licensed to practice law in the State of West Virginia or a law student currently enrolled in an accredited law school and working under the direct supervision of an attorney licensed to practice law in the State of West Virginia.

2.2 "Attorney-client" mail means that correspondence between an attorney retained or appointed to represent an adult felon in the custody of the Division of Corrections.

2.3. "Inmate" means those persons serving a sentence of incarceration in the custody of the Commissioner of Corrections.

**§90-7-3. Applicability.**

3.1 All incoming and outgoing mail except privileged attorney-client mail will be searched and inspected for contraband as defined by Division of Corrections policy and operating procedures at each institution.

3.2. Mail to or from an inmate's attorney shall not be monitored, reviewed, copied or disclosed in any manner unless required by an order of a court of competent jurisdiction.

However, such mail may be checked for weapons, drugs and other contraband provided it is done in the presence of the inmate and there is a reasonable basis to believe that any weapon, drug or other contraband exists in the mail.

3.3. Only those staff persons selected by the Commissioner, Warden, Administrator or their designees who are authorized to read, monitor and copy any mail except attorney-client mail as defined herein.

3.4. All inmate's outgoing mail must be clearly identified as being sent from an inmate at a state correctional institution and must include on the face of the envelope the name and full address of the institution.

**§90-7-4. Procedure.**

4.1. Notification.

4.1.1. Each correctional facility shall notify each inmate that his or her incoming and outgoing mail is subject to being searched, monitored, read and copied. The notification shall be done in writing by memorandum to current inmates and contained in the orientation package for all future inmates as well as by posting signs at each mail collection point in the facility.

4.1.2. The contents of inmate mail 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. Disclosure may be made in civil or administrative proceedings pursuant to an order of a court or 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.

4.1.3. All copies of mail shall be retained for at least three (3) years and disposed of in accordance with Corrections Records Retention Schedule set forth pursuant to a records retention schedule tendered in accordance with W.Va. Code § 5A-8-9.

4.1.4. The provisions of this section shall apply only to those persons serving a sentence of incarceration in the custody of the Commissioner of Corrections.