

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

FILED
JAN 14 10 05 AM '99

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Division of Corrections TITLE NUMBER: 90

RULE TYPE: Legislative; CITE AUTHORITY 25-1-18

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: N/A

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 7

TITLE OF RULE BEING PROPOSED: Monitoring of Inmate Mail

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 July 23, 1999 AT 4:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Loita Butcher
Executive Assistant to Commissioner
112 California Avenue Bldg. 4, Room 300
Charleston Wv 25305

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

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$2.80

BRIEF SUMMARY

**TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS**

**SERIES 7
MONITORING INMATE MAIL**

The purpose of this legislative rule is to allow the West Virginia Division of Corrections to codify their authority to monitor, search, read and/or copy incoming and outgoing mail in the adult correctional facilities under the jurisdiction of the Commissioner of the Division of Corrections..

STATEMENT OF CIRCUMSTANCES

**TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS**

**SERIES 7
MONITORING INMATE MAIL**

Pursuant to legislative amendments to West Virginia Code 28-1-18, the Division of Corrections has the authority to monitor, search, read and/or copy incoming and outgoing mail in the adult correctional facilities under the jurisdiction of the Commissioner of the Division of Corrections.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 90 Monitoring Inmate Mail

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency WV Division of Corrections

Address 112 California Avenue
Charleston WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THREE/FOURTH
<u>ESTIMATED TOTAL COST</u>	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates: N/A

3. Objectives of these rules: N/A

Rule Title: 90 Monitoring Inmate Mail

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government. N/A

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

C. Economic Impact on Citizens/Public at Large. N/A

Date: 6-11-99

Signature of Agency Head or Authorized Representative

Paul Kirby

90CSR7

**TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS**

**SERIES 7
MONITORING INMATE MAIL**

FILED
JUN 14 10 03 AM '99
OFFICE OF THE ATTORNEY GENERAL
SECRET - VIRGINIA
STATE

§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 facilities under the jurisdiction of the Commissioner of the WV Division of Corrections.

1.2 Authority --WV Code § 25-1-18

1.3 Filing date—

1.4 Effective date—

§90-7-2 Applicable

2.1 All incoming and outgoing mail except attorney client privileged mail will be searched and inspected for contraband as defined by divisional policy and institutional operating procedures.

2.2 All incoming and outgoing attorney client privileged mail shall be inspected only for illegal contraband in the presence of the inmate recipient/sender.

2.3 Only those staff persons selected and assigned by the Commissioner, Warden or designee are authorized to read, monitor and/or copy any mail as defined here-in.

2.4 All inmate outgoing mail shall have a return address that clearly indicates what facility the letter/package is being mailed from.

§90-7-3 Procedure

3.1 Notification

3.1.1 The Division of Corrections in each correctional facility shall notify each inmate that their incoming and outgoing mail is subject to search, monitoring, reading and/or copying. This notification shall be done both in written form, as well as posting signs at each mail collection point in the facility.

3.1.2 The contents of inmate mail may be disclosed only under those guides established under WV Code §25-1-18.

3.1.3 All copies of inmate mail must be destroyed within 12 months unless disclosed pursuant to section 3.1.2.

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

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 11, 1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Division of Corrections

112 California Avenue, Bldg. 4, Room 300

Charleston, WV 25305

LEGISLATIVE RULE TITLE: Monitoring of Inmate Mail

1. Authorizing statute(s) citation 28-1-18

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

June 11, 1999

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

None

c. Date of Public Hearing(s) *or* Public Comment Period ended:

July 23, 1999

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

Attached _____

No comments received _____

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

- 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

112 California Avenue, Bldg 4, Room 300

Charleston, WV 25305 (304) 558-2036 ext. 36

(304) 558-5934 (fax)

- 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:

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

d. Attach findings and determinations and reasons:

Attached _____