

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF THE SECRETARY OF STATE
ADMINISTRATIVE LAW DIVISION

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Division of Corrections TITLE NUMBER: 90

CITE AUTHORITY 25-1-18

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

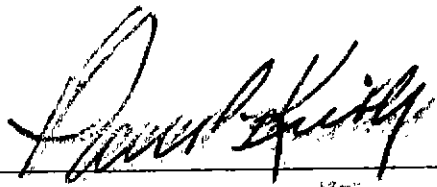
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

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

TITLE OF RULE BEING PROPOSED: Monitoring Inmate Mail

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



**TITLE 90
LEGISLATIVE RULE
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 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 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 Applicable

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

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

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

§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/or 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 only when it is (A) Necessary to safeguard the orderly operation of the correctional institution; (B) Necessary for the investigation of a crime; (C) Necessary for the prevention of a crime; (D) Necessary for the prosecution of a crime; (E) Required by an order of a court of competent jurisdiction; or (F) Necessary to protect persons from physical harm or the threat of physical harm.

4.1.3 All copies of inmate mail must be destroyed within 12 months of the date it was copied unless it has been disclosed pursuant to section 4.1.2.

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.