

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

JUN 22 2 21 PM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Corrections TITLE NUMBER: 90

RULE TYPE: legislative CITE AUTHORITY: WV Code 25-1-14

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 RULE BEING PROPOSED: 8

TITLE OF RULE BEING PROPOSED: Electronic Monitoring of Offenders

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 31, 2000 AT 4:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Division of Corrections

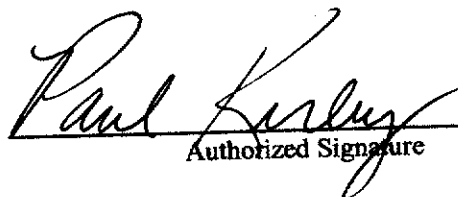
Attention: Loita Butcher

112 California Avenue

Building 4, Room 300

Charleston, WV 25305

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Electronic Monitoring of Offenders

Type of Rule: XX Legislative Interpretive Procedural

Agency: West Virginia Division of Corrections

Address: 112 California Avenue

Building 4, Room 300

Charleston, WV 25305

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$219,000.00			\$219,000.	\$219,000.00
PERSONAL SERVICES	40,000.00				
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT	109,000.00				
OTHER	69,500.00				

2. Explanation of Above Estimates:

The fee structure and scale for charges to inmates, probationers and parolees should always be calculated (in this example \$6.00/day) to cover the costs of equipment and administration plus allowances for indigent use.

3. Objectives of These Rules:

If this formula is followed throughout the length of the program, costs to state government should be offset by the revenues collected. Substantial savings will result in jail fees assuming a percentage of monitoring will be done on inmates who would otherwise be in jail. An accurate estimate is not available without sufficient information.



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 22, 2000

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: Legislative

1. Authorizing statute(s) citation WV Code 25-1-14

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

Public Comment Period ----- filed in State Register June 22, 2000

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 31, 2000 at 4:00 p.m.

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

Attached _____

No comments received _____

Rule Title: Electronic Monitoring of Offenders

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government: \$219,000.00

If this formula is followed throughout the length of the program, costs to state government should be offset by the revenues collected.

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

C. Economic Impact on Citizens/Public at Large.

Date: June 22, 2000

Signature of Agency Head or Authorized Representative:

Paul Kerley

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

June 22, 2000

- 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, WV Division of Corrections

Executive Assistant

112 California Avenue

Charleston, WV 25305

304-558-2036 ext. 36; fax 304-558-5367

- 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)

Same

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:

Comment Period ends July 31, 2000 at 4:00 p.m.

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 _____

90CSR8

TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS

SERIES 8
ELECTRONIC MONITORING OF OFFENDERS

SUMMARY

This legislative rule establishes the policy and delineates guidelines for the electronic monitoring program for offenders under the jurisdiction of the Commissioner of the West Virginia Division of Corrections.

90CSR8

**TITLE 90
LEGISLATIVE RULE
DIVISION OF CORRECTIONS**

**SERIES 8
ELECTRONIC MONITORING OF OFFENDERS**

FILED
JUN 22 2 21 PM '00
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§90-8-1 General

1.1 Scope -- This legislative rule establishes the policy and delineates guidelines for the electronic monitoring program for offenders under the jurisdiction of the Commissioner of the West Virginia Division of Corrections.

1.2 Authority --WV Code § 25-1-14

1.3 Filing date—

1.4 Effective date—

§90-8-2 Definitions

2.1 "Offender" means any person committed to the custody or supervision of the West Virginia Division of Corrections as an inmate or as an in-state or out-of-state probationer or parolee.

§90-8-3 Applicable

3.1 All offenders committed to the custody or supervision of the Commissioner of the West Virginia Division of Corrections by a court, the Parole Board, or through the

Interstate Compact Agreement to include those state inmates housed in regional jails.

§90-8-4 Procedure

4.1 Fee Determination and Collection Process

4.1.1 A daily monitoring fee, in an amount to be determined by the Commissioner of the West Virginia Division of Corrections, will be paid by participating offenders either by certified check or money order on or before the end of each 7-day period while on electronic monitoring supervision.

4.1.2 Certified checks and money orders shall be made payable to the Division of Corrections' Electronic Monitoring Account. No other forms of payment will be accepted.

4.1.3 Each 7-day payment must be mailed or delivered to the Electronic Monitoring Program Coordinator at the address provided to the offender during the program orientation process.

4.2 The Electronic Monitoring Program Coordinator may approve individual requests for the exemption/reduction of daily monitoring fees.

4.2.1 The offender must submit a written request to the Electronic Monitoring Coordinator.

4.2.2 They must state whether they are applying for an exemption or a reduction and the amount requested.

4.2.3 The request must outline the offender's current income or income prospects, liquid assets, fixed debts and obligations (including federal, state and local taxes), medical expenses, child care, transportation and expenses necessary for employment, age or physical infirmity of resident family members, and the consequences should the exemption/reduction be denied.

4.2.4 Should the request for exemption/reduction be denied, the offender will be notified immediately.

4.2.5 The denial decision may be appealed to the Commissioner for a final decision.

4.2.6 The offender will be advised to rectify any arrears in payments.

4.2.7 If the request for exemption/reduction is approved, the offender will be notified that the

requested exemption/reduction is valid only as long as the circumstances under which it was granted remain the same. It is the offender's responsibility to notify the Coordinator should these circumstances change.

4.2.8 In any event, the exemption/reduction will expire thirty (30) days after the initial approval is given. If another exemption/reduction is needed, a new request must be submitted by the offender.

4.2.9 Offenders who are authorized for an exemption must perform community service work as approved by the Coordinator in lieu of paying the electronic monitoring fee. The offender must be eligible to leave his/her home for such work.

4.3 Should the offender fail to send payments to the account as outlined above, the offender may be removed from this program and returned to the Division of Corrections for further actions to have him/her incarcerated and collection for outstanding fees may be instituted.

4.4 A computer program will be used by the program coordinator to account for fees collected and those still owed.

4.4.1 The program will identify offenders who are exempt or approved for a reduced fee.

4.4.2 All funds collected will be deposited into a Special Revenue Account in the State Treasurer's Office entitled "Electronic Monitoring Account".

4.5 To qualify, offenders must meet eligibility and selection requirements, sign a contractual agreement and participate in an orientation process. These requirements and any forms required shall be developed by the Electronic Monitoring Coordinator and approved by the Commissioner of the West Virginia Division of Corrections.

4.6 Any violation of the rules, regulations or procedures for the Electronic Monitoring Program adopted by the Division of Corrections may result in the offender's immediate removal from the program or consideration for the program.