

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #7

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2002 JUN 17 A 9:49

OFFICE WEST VIRGINIA
SECRETARY OF STATE
Effective Date

NOTICE OF AN EMERGENCY RULE

Governor's Committee on Crime,

AGENCY: Delinquency and Correction TITLE NUMBER: 149

CITE AUTHORITY: 62-11C-3

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

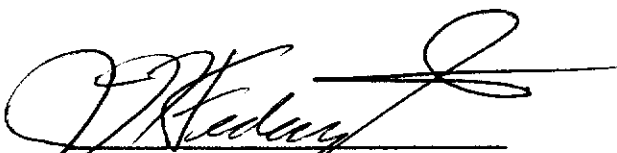
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Series 4

TITLE OF RULE BEING PROPOSED: Community Corrections Standards

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Use additional sheets if necessary


Authorized Signature
J. Norbert Federspiel, Director

SCANNED



EMERGENCY RULE QUESTIONNAIRE

DATE: June 17, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Governor's Committee on Crime,
FROM: (Agency Name, Address & Phone No.) Delinquency and Correction

West Virginia Division of Criminal Justice Services
1204 Kanawha Boulevard, East, Charleston, WV 25301
Attention: Jeffrey D. Estep (304) 558-8814, X 267

EMERGENCY RULE TITLE: Community Corrections Standards

1. Date of filing June 17, 2002

2. Statutory authority for promulgating emergency rule:
62-11C-3

3. Date of filing of proposed legislative rule: June 17, 2002

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? No

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.
See "Attachment 1-6"

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

No

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See "Attachment 2-8"

**TITLE 149
LEGISLATIVE RULE
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND
CORRECTION**

**SERIES 4
COMMUNITY CORRECTIONS STANDARDS**

ATTACHMENT 1-6

The Community Corrections Act provides communities the opportunity for approved programs to replace requirements for jail time for certain offenders. However, only "approved" community corrections programs may participate. Without these emergency rules, communities will not be able to enjoy the possible cost savings of treating offenders in community corrections programs rather than paying the high cost of incarceration. There are several communities in West Virginia currently developing community corrections programs to provide their judicial system with sentencing alternatives for those offenders that may require less than institutional custody. This emergency rule will allow the Community Corrections Subcommittee of the Governor's Committee on Crime, Delinquency and Correction to approve these community corrections programs as soon as the communities are ready to begin implementation. Making communities wait for any length of time for program approval could contribute to jail overcrowding as well as unnecessary jails costs for those communities.

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**TITLE 149
LEGISLATIVE RULE
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND
CORRECTION**

**SERIES 4
COMMUNITY CORRECTIONS STANDARDS**

SUMMARY OF EMERGENCY RULE

This legislative rule establishes minimum standards for community corrections programs. This rule also creates a mechanism for communities to implement and maintain Community Corrections Programs designed to provide the judicial system with sentencing alternatives for those offenders that may require less than institutional custody.

**TITLE 149
LEGISLATIVE RULE
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND
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STATEMENT OF CIRCUMSTANCES OF AN EMERGENCY RULE

The West Virginia Legislature passed the West Virginia Community Corrections Act (§62-11C) for the purpose of creating a mechanism for communities to implement and maintain community corrections programs designed to provide the judicial system with sentencing alternatives for those offenders that may require less than institutional custody. This legislative rule establishes the minimum standards for those community corrections programs being implemented by communities at the local level.

The Community Corrections Act provides communities the opportunity for approved programs to replace requirements for jail time for certain offenders. However, only "approved" community corrections programs may participate. Without these emergency rules, communities will not be able to enjoy the possible cost savings of treating offenders in community corrections programs rather than paying the high cost of incarceration. There are several communities in West Virginia currently developing community corrections programs to provide their judicial system with sentencing alternatives for those offenders that may require less than institutional custody. This emergency rule will allow the Community Corrections Subcommittee of the Governor's Committee on Crime, Delinquency and Correction to approve these community corrections programs as soon as the communities are ready to begin implementation. Making communities wait for any length of time for program approval could contribute to jail overcrowding as well as unnecessary jails costs for those communities.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Community Corrections Standards

Type of Rule: X Legislative _____ Interpretive _____ Procedural

Agency: Governor's Committee on Crime, Delinquency and Correction

Address: West Virginia Division of Criminal Justice Services

1204 Kanawha Boulevard, East, Charleston, WV 25301

Contact: Jeffrey D. Estep (304) 558-8814, X 267

1. Effect of Proposed rule: **N/A – See Page 2 “**”**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST					
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates: **N/A**

3. Objectives of These Rules:

This legislative rule establishes minimum standards for community corrections programs. This rule also creates a mechanism for communities to implement and maintain Community Corrections Programs designed to provide the judicial system with sentencing alternatives for those offenders that may require less than institutional custody.

Rule Title: Community Corrections Standards

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

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

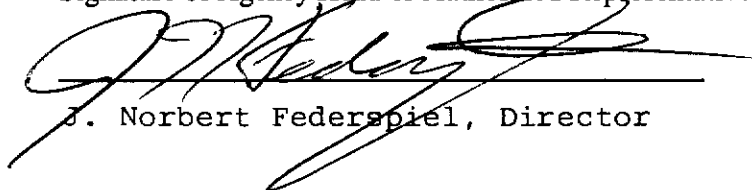
None

C. Economic Impact on Citizens/Public at Large.

None

Date: June 17, 2002

Signature of Agency Head or Authorized Representative:



J. Norbert Federspiel, Director

* *This rule is proposed to establish standards and procedures to better implement Chapter 62, Article 11C of the West Virginia Code, as amended (Community Corrections Act). The West Virginia Community Corrections Act itself has an economic impact on State Government and political subdivisions; however, the proposed rule itself does not have, nor establish, an economic impact.*

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TITLE 149
LEGISLATIVE RULE
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND CORRECTION
SERIES 4
COMMUNITY CORRECTIONS STANDARDS

JOHN D. WEST VIRGINIA
 SECRETARY OF STATE

§149-4-1. General.

1.1. Scope. -- This legislative rule establishes minimum standards for community corrections programs. This rule also creates a mechanism for communities to implement and maintain community corrections programs designed to provide the judicial system with sentencing alternatives for those offenders that may require less than institutional custody.

1.2. Authority. -- W. Va. Code §62-11C-3.

1.3. Filing Date. --

1.4. Effective Date. --

§149-4-2. Definitions.

2.1. "Community Corrections Act" refers to the provisions of West Virginia Code § 62-11C-1 et seq.

2.2. "Community Corrections Program" means the plan or system of diversion services of a unit of government outlined in the Community Corrections Act. A program may be organized by the local community criminal justice board or by application of a local chief probation officer, with the written approval of the chief judge of the circuit, with a showing of local community and local criminal justice system involvement in the program.

2.3. "Community Corrections Subcommittee" means the group, established in West Virginia Code § 62-11C-2, that is charged with developing standards and assisting the Governor's Committee on Crime, Delinquency and Correction in administering the Community Corrections Act.

2.4. "Community Criminal Justice Board" means the board, established by West Virginia Code § 62-11C-6, that is charged with establishing, coordinating, overseeing and maintaining community corrections programs at the local level.

2.5. "Proposal Application" means the document developed by the Community Corrections Subcommittee to be completed by the applicant. The proposal application conveys appropriate information to review local community corrections programs whether they are seeking approval of the program, or state funding of the program.

2.6. "Special Conditions and Assurances" means those conditions and assurances listed on the proposal application which the applicant certifies it will comply with if approval of the proposal application is granted by the Community Corrections Subcommittee on behalf of the Governor's Committee on Crime, Delinquency and Correction.

2.7. "State Funds" means the funds collected and placed in a special revenue account, established by West Virginia Code § 62-11C-4, that are to be disbursed, as they are available, by the Governor's Committee on Crime, Delinquency and Correction. This term does not apply to local participation fees provided for in the Community Corrections Act.

§149-4-3. Community Corrections Programs Standards.

3.1. The purpose of this section is to establish the minimum standards of a community corrections program for adult offenders. The Community Corrections Subcommittee will utilize these standards as criteria to determine if a community corrections program is eligible for approval and funding.

3.2. Core Elements. -- Community corrections programs shall include the following four (4) core elements.

3.2.a. Intake and Risk and Needs Assessment. -- Community corrections programs shall utilize a research based intake and risk and need assessment tool that addresses the following elements:

3.2.a.1. Drug and alcohol screening.

3.2.a.2. Criminal history.

3.2.a.3. Known associates.

3.2.a.4. Community support system.

3.2.a.5. Education needs.

3.2.a.6. Treatment needs.

3.2.a.7. Mental health needs.

3.2.a.8. Employment needs.

3.2.a.9. Substance abuse history.

3.2.a.10. Established criteria to remove an offender from the Community Corrections Program.

3.2.b. Services. -- Based upon community corrections program type, necessity and community availability, community corrections programs shall consider the following services:

3.2.b.1. Case management.

3.2.b.2. Individual and group treatment.

3.2.b.2.A. Alcohol and drug treatment through a state certified provider(s).

3.2.b.2.B. Domestic violence counseling through a licensed provider(s).

3.2.b.2.C. Sex offender treatment through an educated, experienced and reputable provider(s).

3.2.b.2.D. Anger management counseling.

3.2.b.2.E. Financial management counseling.

3.2.b.3. Education.

3.2.b.3.A. General Educational Development preparation.

3.2.b.3.B. College preparation.

3.2.b.3.C. Vocational and technical training.

3.2.b.4. Community service and restitution.

3.2.b.5. Victim and offender mediation that meets national standards.

3.2.b.6. Cognitive restructuring.

3.2.b.7. Mental health services that utilizes a community mental health center or a trained mental health services provider.

3.2.b.8. Drug and alcohol screening.

3.2.b.9. Monitoring of court ordered medications.

3.2.b.10. Home-placement services.

3.2.c. Reentry and Aftercare -- Community corrections programs may link with a local workforce investment board or similar entity that provides one or more of the following types of services:

3.2.c.1. Job and vocational training.

3.2.c.2. Job placement.

3.2.c.3. General Educational Development testing.

3.2.c.4. Treatment services

3.2.d. Community Corrections Program Evaluation. -- A written plan shall be developed which measures the success of a community corrections program that includes the following elements:

3.2.d.1. Goals.

3.2.d.2. Objectives.

3.2.d.3. Data to be captured regarding each offender utilizing standardized forms or

web based applications to be developed by the Community Corrections Subcommittee to include but not be limited to the following:

- 3.2.d.3.A. Offender full name and aliases (if applicable).
- 3.2.d.3.B. Offender date of birth.
- 3.2.d.3.C. Offender race.
- 3.2.d.3.D. Offender ethnicity.
- 3.2.d.3.E. Offender gender.
- 3.2.d.3.F. Offender home county and state at time of offense.
- 3.2.d.3.G. Highest grade completed by offender at time of offense.
- 3.2.d.3.H. Convicted offense(s) of offender.
- 3.2.d.3.I. Classification of offense(s) (misdemeanor or felony).
- 3.2.d.3.J. Sentencing county.
- 3.2.d.3.K. Sentencing court (magistrate or circuit).
- 3.2.d.3.L. Method of disposition.
- 3.2.d.3.M. Sentence.
- 3.2.d.3.N. Sentencing date.
- 3.2.d.3.O. Date the offender entered the community corrections program.
- 3.2.d.3.P. Date the offender failed the community corrections program (if applicable).
- 3.2.d.3.Q. Date the offender completed the community corrections program (if applicable).
- 3.2.d.3.R. Services received by the offender.
- 3.2.d.3.S. Certificates (achievement, completion, etc) obtained by offender.
- 3.2.d.3.T. Assessment scores received by the offender.

§149-4-4. Administrative Procedures.

4.1. The purpose of this section is to establish the administrative procedures that a community corrections program must follow in order to be considered for approval and funding.

4.2. General Community Corrections Programs Approval. -- Community corrections programs applicants shall adhere to the following guidelines for both community corrections program approval

and funding approval:

4.2.a. A community or communities seeking community corrections program approval from the Community Corrections Subcommittee must submit an official community corrections program proposal application and follow all special conditions and assurances in the proposal application. This proposal application must be submitted by those communities seeking funding as well as those communities not seeking funding.

4.2.b. Proposed community corrections programs shall meet the Community Corrections Programs Standards as established in §149-4-3 of this rule.

4.2.c. A county commission shall serve as an applicant for a community corrections program. In those incidences where the county commission is unable to serve as the applicant, the West Virginia Supreme Court of Appeals may serve as the applicant representing chief circuit judges and chief probation officers.

4.2.d. A community corrections program shall be developed by a local community criminal justice board, or a chief probation officer, with approval of the chief circuit judge.

4.2.e. The applicant must demonstrate how the local community and local criminal justice system are involved with the community corrections program development and implementation. Applicants are encouraged to submit letters of support from all individuals involved in the development and implementation process.

4.3. Approval of community corrections program with no request for state funds. -- Should a community corrections program applicant request community corrections program approval from the Community Corrections Subcommittee and not request state funds for the implementation of that community corrections program, the following guidelines shall be applicable:

4.3.a. Proposal applications may be submitted to the Community Corrections Subcommittee at anytime. These proposal applications will be reviewed and considered for approval by the Community Corrections Subcommittee on behalf of the Governor's Committee on Crime, delinquency and Corrections at the next scheduled Community Corrections Subcommittee meeting.

4.3.b. Should a proposal application be approved by the Community Corrections Subcommittee, said approval will remain in effect for a period of three years.

4.3.c. Should a community corrections program be modified following an approval from the Community Corrections Subcommittee yet prior to the end of the established 3-year period, new approval shall be requested from the Community Corrections Subcommittee.

4.3.d. Approved applicants shall submit quarterly progress reports approved by the Community Corrections Subcommittee.

4.3.e. Approved applicants shall submit an annual progress report approved by the Community Corrections Subcommittee.

4.3.f. Approved applicants shall collect and submit quarterly, data pursuant to the requisites of §149-4-3.2.d.3. of this rule.

4.4. Approval of community corrections program with state funding. -- Should a community

corrections program applicant request community corrections program approval from the Community Corrections Subcommittee and request state funds for the implementation of that community corrections program, the following guidelines shall be applicable:

4.4.a. The Community Corrections Subcommittee will distribute proposal application information during the months of January – March of each year. The distribution list will include the following:

- 4.4.a.1. County Commissions;
- 4.4.a.2. Circuit Judges;
- 4.4.a.3. Probation Offices;
- 4.4.a.4. Class I and II Municipalities; and
- 4.4.a.5 Prosecuting Attorneys.

4.4.b. Proposal application submission deadline will be a set date during the months of April through May. This date will be established each year by the Community Corrections Subcommittee.

4.4.c. Proposal applications approved for funding will begin community corrections program implementation on July 1 and conclude community corrections program implementation June 30 of the following year.

4.4.d. Funding awards will be for a one-year period on a competitive basis.

4.4.e. Funding decisions will be made based on the criteria in the proposal application and applicants may be required to orally present their application to the Community Corrections Subcommittee.

4.4.f. There shall be a minimum 10% local cash match requirement on each funded community corrections program.

4.4.g. State funds will be disbursed to the applicants through a monthly reimbursement of expenses.

4.4.h. During the administration of a proposal application award, applicants shall submit all administrative paperwork approved by the Community Corrections Subcommittee. The paperwork may include, but is not limited to the following:

- 4.4.h.1. Award contract.
- 4.4.h.2. Award resolution.
- 4.4.h.3. Monthly progress reports.
- 4.4.h.4. Monthly financial reports with supporting documentation.
- 4.4.h.5. Monthly request for reimbursement documents.

4.4.h.6. Annual progress report.

4.4.h.7. Monthly data pursuant to the requisites of §149-4-3.2.d.3. of this rule.