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2002 DEC 17 A 10:15

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**WEST VIRGINIA LEGISLATURE**  
*Legislative Rule-Making Review Committee*

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December 17, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Trudy Laurenson  
Family Protection Services Board  
1204 Kanawha Blvd, 2nd Floor  
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Operation of the Family Protection Services Board, 191CSR1**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
  - (a) as originally filed
  - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** Family Protection Services Board

**Subject:** Operation of the Family Protection Services Board (191  
CSR 1)

**Date:** November 8, 2002

**Staff Counsel:** Connie A. Bowling

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PERTINENT DATES

Filed for public comment: June 21, 2002  
Public comment period ended: July 22, 2002  
Filed following public comment period: July 26, 2002  
Filed LRMRC: July 26, 2002  
Filed as emergency: N/A

Fiscal Impact: None.

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ABSTRACT

The proposed rule amends a current rule governing operation of the Family Protection Services Board, the entity charged with regulating domestic violence shelters.

The rule updates internal references to the WVC and adds certification of monitored visitation exchanges to the Board's responsibility for licensure of shelters and perpetrator intervention programs.

AUTHORITY

Statutory authority:

W. Va. Code § 48-26-401:

It is the duty of the board to:

\* \* \*

(4) Promulgate rules to implement the provisions of this article and any applicable federal guidelines;

\* \* \*

W. Va. Code § 48-26-404.

(a) The family protection services board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code governing the minimum level of responsibility, service and accountability expected from providers of programs of intervention for perpetrators of domestic violence.

\* \* \*

W. Va. Code § 48-26-1003.

(a) The board shall propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this part [children's centers for the monitoring of custodial responsibility]

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ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Certain provisions of the rule are of a procedural nature and may be more appropriate in a procedural rule, rather than a legislative rule. Counsel recommends technical modifications.