

W. Richard Staton, Director



Division of
**Justice &
Community**
Services

Jeff S. Sandy, CFE, CAMS
Cabinet Secretary

Governor's Committee
Crime, Delinquency & Correction

Department of Military Affairs & Public Safety

June 29, 2018

Jeff S. Sandy CFE, CAMS
Cabinet Secretary
West Virginia Department of Military Affairs & Public Safety
Building 1, Room W-400
1900 Kanawha Boulevard East
Charleston, WV 25305

Re: Regulatory Review

Dear Secretary Sandy:

Attached is the Regulatory Review to the Governor and the Legislative Rule-Making Review Committee for the West Virginia Division of Justice and Community Services.

If you have any questions concerning the information, please contact me.

Sincerely,

W. Richard Staton

WRS:bjw

Attachment

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STATE OF WEST VIRGINIA
Regulatory Review
Issued To: Governor Jim Justice
AND
The Legislative Rule-Making Review Committee
June 29, 2018

Rule Title: 149CSR1 Contested Case Hearings and Declaratory Rulings

Authority: §29A-5-1(a)

Effective Date: 12/5/2014

Historical modification effective dates: Original effective date 1/22/1983. Unmodified until 12/5/2014

Rule Description: This rule establishes the general procedures for conducting contested case hearings to facilitate the resolutions of contested cases in a just, speedy and inexpensive manner.

Recommendation for continuance without change, modification or repeal: Continue

Reasoning for recommendation: This rule is an integral part of the appeal processes of the Law Enforcement Professional Standards Sub-Committee business processes when acting on a law enforcement officer's certification.

Rule Title: 149CSR2 Law Enforcement Training and Certification Standards

Authority: §30-29-3

Effective Date: May 1, 2017

Historical modification effective dates: Original filed 2/26/1983. Subsequent modified effective dates: 5/12/1989; 6/7/1996; 7/1/1997; 5/11/1998; 6/1/1999; 7/1/2000; 7/1/2001; 7/1/2003; 7/1/2005; 6/25/2009; 7/10/2011; 4/6/2012; 7/1/2013; 4/28/2014; 4/17/2015; 7/1/2016; 5/1/2017; 7/1/2018 (in progress)

Rule Description: This legislative rule establishes standards for basic training academies with medical admission guidelines and the job description of an entry-level officer. This rule also outlines annual in-service and biennial in-service training, continued certification, re-certification and de-certification standards for law enforcement officers.

Recommendation for continuance without change, modification or repeal: Continue

Reasoning for recommendation: Without this rule there would be no certification requirements for law enforcement officers in the State of West Virginia.

Rule Title: 149CSR3 Protocol for Law Enforcement Response to Domestic Violence

Authority: §48-27-1102

Effective Date: April 28, 2011

Historical modification effective dates: Original filed 8/27/1992. Subsequent modified effective dates: 4/14/1995; 7/1/1997; 5/11/1998; 6/1/1999; 7/1/2001; 7/8/2002; 7/1/2005; 4/28/2011; 7/1/2018 (in progress)

Rule Description: This legislative rule establishes law enforcement response to domestic violence by providing guidelines and establishing standards for responding to domestic violence incidents. Particular attention is given to protecting victims of domestic violence through enforcement of protective orders, initial response, and arrest, on-scene assistance, reporting and follow-up. It is also the means by which law enforcement agencies can minimize departmental liability and provide training.

Recommendation for continuance without change, modification or repeal: Continue

Reasoning for recommendation: This rule dictates the standards and procedures by which all law enforcement officers in the State of West Virginia will respond to cases of domestic violence.

Rule Title: 149CSR4 Community Corrections Standards

Authority: §62-11C-3

Effective Date: 7/1/2003

Historical modification effective dates: Original filed 7/1/2003. Subsequent modified effective dates: N/A

Rule Description: 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.

Recommendation for continuance without change, modification or repeal: Continue

Reasoning for recommendation: From July 1, 2016 through June 30, 2017, funding was provided to support twenty-seven (27) local community correction programs. Many programs have taken on more of a "regional" approach when providing services. As a result, the community correction programs provided services to forty-nine (49) counties in West Virginia. Map 1.1 (See Attached) illustrates the counties that received services during this time frame.

All grant funded community corrections programs are required to complete an assessment on each offender entering the program to determine the level of risk and level of services which are needed. In Fiscal Year 2017, the grant funded programs reported a total of 3,058 direct sentence admissions, including 1,915 probationers recorded in the OCMS and 1,143 other admissions recorded in the Community Corrections Information System. This substantially reduces the prison overcrowding problem in our State.

Rule Title: 149CSR6 Motor Vehicle Search Standards

Authority: W. Va. Code §62-1A-11

Effective Date: May 6, 2012

Historical modification effective dates: Original filed 4/6/2012. Subsequent modified effective dates: N/A

Rule Description: This legislative rule establishes standards for the use of the vehicle consent search form in accordance with W. Va. Code §62-1A-10.

Recommendation for continuance without change, modification or repeal: *REPEAL*

Reasoning for recommendation: The applicable section of State Code authorizing the promulgation of Rules in re this matter is no longer in effect.

Rule Title: 149CSR7 Protocol for Law Enforcement Response to Stalking

Authority: §§61-2-9A

Effective Date: July 1, 2013

Historical modification effective dates: Original filed 7/1/2013. Subsequent modified effective dates: N/A

Rule Description: This legislative rule establishes law enforcement response to stalking by providing guidelines and establishing standards for responding to stalking incidents. Particular attention is given to protecting victims of stalking through initial response, on-scene assistance, arrest, follow-up, and reporting, including enforcement of personal safety orders. If the stalking is determined to be domestic in nature, refer to 149CSR3. Law enforcement response is dictated by the protocol as outlined in 149CSR3. It is also the means by which law enforcement agencies can minimize departmental liability and provide training.

Recommendation for continuance without change, modification or repeal: Continue

Reasoning for recommendation: This rule dictates the standards and procedures by which all law enforcement officers in the State of West Virginia will respond to cases of stalking.

Rule Title: 149CSR8 Protocol for Law Enforcement Response to Child Abuse and Neglect

Authority: §15-9-5

Effective Date: July 1, 2013

Historical modification effective dates: Original filed 7/1/2013. Subsequent modified effective dates: N/A

Rule Description: This legislative rule establishes law enforcement response to child abuse and neglect by providing guidelines and establishing uniform standards for responding to circumstances involving possible child abuse and neglect. It will also be used as a means by which law enforcement agencies can develop training curricula on responding to circumstances involving possible child abuse and neglect.

Recommendation for continuance without change, modification or repeal: Continue

Reasoning for recommendation: This rule dictates the standards and procedures by which all law enforcement officers in the State of West Virginia will respond to cases of child abuse and neglect.

Rule Title: 149CSR9 William R. Laird IV – Second Chance Driver's License Program

Authority: §17B-7-10

Effective Date: August 12, 2016

Historical modification effective dates: Original filed 8/12/2018. Subsequent modified effective dates: N/A

Rule Description: This legislative rule establishes the standards for the Second Chance Driver's License Program or SCDL. In furtherance, this rule also creates a mechanism or framework for SCDL Program execution; and, coordination among the Division of Justice and Community Services (DJCS); Division of Motor Vehicles (DMV) and the court(s). The purpose of this coordination is to allow an individual who has had their driver's license suspended or revoked as a result of unpaid court costs, and meets the requirements set forth in statute and this rule, to be accepted for participation in the SCDL and to receive a temporary stay of the suspension or revocation from the Commissioner of DMV while the unpaid court costs are being paid.

Recommendation for continuance without change, modification or repeal: Continue

Reasoning for recommendation: This rule allows a mechanism for an individual who has had their drivers license revoked to pay owed fines and fees back to the State.