

Mr. 285

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



ENROLLED

SENATE BILL NO. 285

(By Senators LUCHT AND BURDETTE)



PASSED MARCH 12, 1988

In Effect 90 DAYS FROM Passage



E N R O L L E D

Senate Bill No. 283

(BY SENATORS LUCHT AND BURDETTE)

[Passed March 12, 1988; in effect ninety days from passage.]

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirteen-f; to amend and reenact section five, article twenty of said chapter; to amend and reenact section four, article four, chapter twenty-five of said code; to amend and reenact sections one and five, article one, chapter twenty-eight of said code; to amend and reenact section ten, article three, chapter twenty-eight of said code; to amend and reenact section four, article thirteen, chapter sixty-two of said code, all relating to education of institutionalized school-age juveniles within facilities operated by the department of corrections; providing for administration and provision of such services; requiring the department of education to designate a director of educational services for institutionalized juveniles who shall hire a principal or lead teacher for each facility and institution; requiring state department of education to provide educational services now the responsibility of employees of department of corrections; permitting qualified educational personnel of correctional facilities to become school personnel of the state department of education; transferring funds for such educational services from the department of corrections to the department of education; and making consequential

changes in certain statutes relating to the departments of education and corrections to reflect changes caused by this transfer of responsibility.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirteen-f; that section five, article twenty, chapter eighteen of said code be amended and reenacted; that section four, article four, chapter twenty-five of said code be amended and reenacted; that sections one and five, article one, chapter twenty-eight of said code be amended and reenacted; that section ten, article three, chapter twenty-eight of said code be amended and reenacted; and that section four, article thirteen, chapter sixty-two of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-13f. Responsibility for administration and provision of educational services in state correctional institutions.

1 The state board is responsible for the administration of
2 programs for the education of all institutionalized school-
3 age juveniles within facilities operated by the department
4 of corrections. School age juvenile means in this article any
5 individual who would, if not institutionalized, be entitled to
6 attend the public schools in accordance with (1) section five,
7 article two of this chapter; (2) sections fifteen and eighteen,
8 article five of this chapter; or (3) section one, article twenty
9 of this chapter. To strengthen the administration of
10 educational programs, there shall be: (1) A full-time
11 principal or lead teacher at each department of corrections
12 facility having any school-age juveniles and (2) a full-time
13 director of educational services for institutionalized
14 school-age juveniles employed by the department of
15 education. Such principal or lead teachers shall be
16 employed by and responsible to the director of educational
17 services.

18 Classroom teachers and other school personnel shall be
19 hired and provided as necessary to all institutionalized
20 juveniles by the state department of education to the extent

21 necessary to provide adequate and appropriate educational
22 opportunity. Adequate and appropriate educational
23 opportunity requires education services for
24 institutionalized school-age juveniles on a twelve-month
25 basis, excepting only normal school holidays and those
26 additional days determined by the state board of education
27 in consultation with the appropriate department head to be
28 necessary. School personnel shall be responsible to the
29 principal or lead teacher while providing educational
30 services but shall comply with rules established by the
31 department of corrections to ensure security and safety in
32 the facility. Educational personnel employed at and by
33 correctional facilities and institutions shall be permitted to
34 transfer to comparable positions as school personnel of the
35 state department of education if those personnel meet the
36 qualifications established for those positions by the state
37 department of education. The daily rate of pay of
38 educational personnel employed by the state department of
39 education shall be equivalent to the daily rate of pay of the
40 comparable position in the public schools of the county
41 where the institution is located.

42 There shall be a separate line item account of the budget
43 of the state department of education for the education of
44 institutionalized school-age juveniles. All money that the
45 Legislature may annually appropriate for that purpose
46 shall be placed into this account. This account shall be used
47 solely for the education of such juveniles. Money for
48 education of juveniles in the department of corrections
49 shall be deposited in that account and accounted for
50 separately.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-5. Powers and duties of state superintendent.

1 The state superintendent of schools shall have power to
2 organize, promote, administer and be responsible for:
3 (1) Stimulating and assisting county boards of
4 education in establishing, organizing and maintaining
5 special schools, classes, regular class programs, home-
6 teaching and visiting-teacher services.
7 (2) Cooperating with all other public and private
8 agencies engaged in relieving, caring for, curing, educating
9 and rehabilitating exceptional children, and in helping
10 coordinate the services of such agencies.

11 (3) Preparing the necessary rules, regulations, formula
12 for distribution of available appropriated funds, reporting
13 forms and procedures necessary to define minimum
14 standards in providing suitable facilities for education of
15 exceptional children and ensuring the employment,
16 certification and approval of qualified teachers and
17 therapists subject to approval by the state board of
18 education.

19 (4) Receiving from county boards of education their
20 applications, annual reports and claims for reimbursement
21 from such moneys as are appropriated by the Legislature,
22 auditing such claims and preparing vouchers to reimburse
23 said counties the amounts reimbursable to them.

24 (5) Assuring that all exceptional children in the state,
25 including children in mental health facilities, residential
26 institutions, private schools, and correctional facilities as
27 provided in section thirteen-f, article two, chapter eighteen
28 of this code, receive an education in accordance with state
29 and federal laws.

30 (6) Performing such other duties and assuming such
31 other responsibilities in connection with this program as
32 may be needed.

33 (7) Nothing herein contained shall be construed to
34 prevent any county board of education from establishing
35 and maintaining special schools, classes, regular class
36 programs, home-teaching or visiting-teacher services out of
37 funds available from local revenue.

CHAPTER 25. DEPARTMENT OF CORRECTIONS.

ARTICLE 4. CENTERS FOR HOUSING YOUTHFUL MALE LAW OFFENDERS.

§25-4-4. Superintendent.

1 Each center shall be under the direction of a
2 superintendent, who shall have the minimum qualification
3 of a college degree with a major in sociology or a related
4 field and be trained and experienced in dealing with youths.
5 He shall be paid an annual salary to be fixed by the
6 commissioner of corrections.

7 At each center the superintendent shall provide a training
8 program which shall include the following four separate,
9 well-integrated components: (1) Work program; (2)
10 educational program in accordance with section thirteen-f,

11 article two, chapter eighteen of this code; (3) recreational
12 program; and (4) individual and group counseling.

**CHAPTER 28. STATE CORRECTIONAL
AND PENAL INSTITUTIONS.**

ARTICLE 1. COMMITMENT OF YOUTHFUL MALE OFFENDERS.

§28-1-1. Care of youthful male offenders.

1 The state commissioner of corrections shall be charged
2 with the care, training and reformation of male youths of
3 the state committed to his custody. Education of the male
4 youths is subject to the provisions of section thirteen-f,
5 article two, chapter eighteen of this code. All state facilities
6 and institutions for such purpose shall be managed and
7 controlled as prescribed in article one, chapter twenty-five
8 of this code.

§28-1-5. Rules and regulations.

1 The state commissioner of corrections shall have
2 authority to make such rules and regulations for the
3 management and government of the facilities for youthful
4 offenders under his control, and the instruction, discipline,
5 training, employment and disposition of the boys and their
6 transportation to and from the various facilities, subject to
7 section thirteen-f, article two, chapter eighteen of this code,
8 as the commissioner may deem proper.

ARTICLE 3. INDUSTRIAL HOME FOR YOUTH.

§28-3-10. Rules and regulations.

1 The state commissioner of corrections may make such
2 rules and regulations for the management and government
3 of the industrial home, and the instruction, discipline,
4 training, employment and disposition of the youth of the
5 home, and their transportation to and from the home,
6 subject to section thirteen-f, article two, chapter eighteen of
7 this code, as the commissioner may deem proper.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 13. CORRECTIONS MANAGEMENT.

**§62-13-4. Powers and duties of commissioner or director
generally; compensation and funds of inmates.**

1 To accomplish the purposes of this article, the

2 commissioner (or the director of corrections management if
3 one is appointed) shall:

4 (a) Exercise general supervision over the
5 administration of the institutions under the jurisdiction of
6 the department;

7 (b) Establish separate subdivisions, to be headed by
8 deputy directors, of adult services, youth services, and other
9 subdivisions as he deems advisable, which may be headed
10 by the same or different deputy directors, which said
11 deputy directors must be graduates of an accredited college
12 or university with a degree in sociology, psychology, social
13 science or a related field;

14 (c) Establish rules and regulations in writing governing
15 all subdivisions and institutions within the department;

16 (d) Establish an in-service training program for
17 personnel of the department;

18 (e) Classify the institutions of the department, varying
19 according to such factors as security features, program, age
20 and sex of inmates, physical stature or size, character of
21 inmates;

22 (f) Establish a system of classification of inmates,
23 through a reception and examination procedure, and in
24 each institution a classification committee and procedure
25 for assignment of inmates within the programs of the
26 institution;

27 (g) Cooperate with the department of education in
28 providing for the education of inmates in all institutions
29 within the department, subject to section thirteen-f, article
30 two, chapter eighteen of this code;

31 (h) Supervise the treatment, custody and discipline of
32 all inmates and the maintenance of the institutions and
33 their industries;

34 (i) Establish a system of compensation for inmates of
35 the correctional institutions of the state who perform good
36 and satisfactory work either within the industrial program
37 or in the servicing and maintenance of the correctional
38 institutions or any other institutions or camps within the
39 state. The commissioner (or the director, with the approval
40 of the commissioner) may establish a graduated scale of
41 compensation to be paid to inmates in accordance with
42 their skill in industry.

43 The principal officer of any correctional institution, on
44 request of an inmate, may expend up to one half of the

45 money so earned by such inmate on behalf of the family of
46 such inmate. The remainder of the money so earned, after
47 deducting amounts expended as aforesaid, shall be
48 accumulated to the credit of the inmate and be paid to the
49 inmate at such times as may be prescribed by such rules and
50 regulations. Such funds so accumulated on behalf of
51 inmates shall be held by the principal officer of each
52 institution, under a bond approved by the attorney general.

53 The accumulation of such total funds, not necessary for
54 current distribution, shall be invested, with the approval of
55 the commissioner or as appropriate, the director through
56 the West Virginia municipal bond commission, in short
57 term bonds or treasury certificates or equivalent of the
58 United States. Bonds and certificates so purchased shall
59 remain in the custody of the state treasurer. The earnings
60 from investments so made shall be reported to the principal
61 officer of each institution from time to time, as earned, and
62 shall be credited to the respective accounts of such
63 institutions by the commission.

64 When such earnings are transferred to the respective
65 institutions, they shall be credited by the principal officer
66 to the credit of and for the benefit of the inmates' activities
67 account.

Handwritten signatures and initials, including "J. W. ..."

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Jedd C. Wilts
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Dan Torheim
.....
President of the Senate

Bob Chilton
.....
Speaker House of Delegates

The within *Approved* this the *28th*
March day of 1988.

Russ A. Skane Jr.
.....
Governor



PRESENTED TO THE

GOVERNOR

Date 3/18/88

Time 3:54 p.m.

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE