WEST VIRGINIA CODE CHAPTER 15A ARTICLE 5

WV Legislature

§15A-5-1. Creation of Bureau of Prisons and Jails; organization of facilities.

(a) The commissioner shall establish a Bureau of Prisons and Jails. The commissioner shall determine what adult facilities or institutions shall appropriately be managed by the Bureau of Prisons and Jails.

(b) The commissioner shall appoint an assistant commissioner, who shall oversee the Bureau of Prisons and Jails.

(c) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

WV Legislature

§15A-5-2. Transfer of duties and funds of Division of Corrections.

All prior conveyed responsibilities of the Division of Corrections, and its Commissioner are hereby transferred to the Division of Corrections and Rehabilitation. All funds, both general revenue and special revenue, are hereby transferred to the Division of Corrections and Rehabilitation. Any funds administered by the Division of Corrections are to be administered by the Division of Corrections and Rehabilitation, and its Commissioner.

WV Legislature

§15A-5-3. Superintendents; duties and authority; bond; residence.

(a) The commissioner shall appoint a superintendent for each institution under the control of the division. Each superintendent shall be bonded by the Board of Risk and Insurance Management.

(b) The superintendent shall be the chief executive officer of his or her assigned correctional institution and, subject to the direction of the commissioner, has the responsibility for the overall management of all operations within his or her assigned institution. The superintendent shall be in charge of its internal police and management and shall provide for feeding, clothing, working and taking care of the inmates, subject to the control of the commissioner.

(c) The superintendent shall promptly enforce all orders and rules made by the commissioner. He or she shall protect and preserve the property of the state and may for that purpose punish the inmates in the manner authorized by the commissioner. The superintendent shall have the custody and control of all the real and personal property at the correctional institution, subject to the orders of the commissioner.

(d) The commissioner may authorize the superintendent to establish an imprest fund in accordance with the provisions of §12-2-2 of this code for the sole purpose of providing employees with funds to transport inmates for any purpose as determined by the superintendent, and any of the fund that currently exists is hereby continued. The employee is required to complete a travel reimbursement form for the travel within five days of returning to the correctional facility. The funds shall be used to reimburse the imprest fund for the amount expended by the employee.

WV Legislature

§15A-5-4. Appointment of deputy superintendent; duties; bond.

Each superintendent, with the approval of the commissioner, may hire a deputy superintendent. The deputy superintendent's duties shall be fixed by the superintendent, as approved by the commissioner. In the absence of the superintendent, the deputy superintendent shall perform all the duties required of the superintendent. The deputy superintendent shall be bonded by the Board of Risk and Insurance Management.

WV Legislature

§15A-5-5. Hiring of other assistants and employees.

The superintendent of each correctional institution or unit shall, in the manner provided in §15A-3-5 of this code, hire all assistants and employees required for the management of the correctional institutions or units, including a sufficient number of correctional employees to preserve order and enforce discipline among the inmates, to prevent escapes, and to remove all persons convicted and sentenced to the custody of the Division of Corrections and Rehabilitation, from the place confined to a correctional institution, all of whom shall be under the control of the superintendent: Provided, That the number of the assistants and employees, and their compensation, shall first be approved by the commissioner.

All persons employed at a state-operated correctional institution or correctional unit are subject to the supervision and approval of the superintendent and the authority of the commissioner, or his or her designee, except those persons employed by the State Board of Education, pursuant to §18-2-13f of this code.

WV Legislature

§15A-5-6. Jail intake facilities; housing of adult inmates.

To the extent practicable, and in a manner consistent with providing for the safety of the public, correctional employees, and inmates, the commissioner will create space in every adult institution for both jail and prison populations: Provided, That in no case shall the commissioner be required to provide jail space in every institution in excess of space necessary for initial receiving, booking, and holding of an inmate to await transport by the Division of Corrections and Rehabilitation to the most appropriate housing placement for that inmate. In no case may a person who is a pretrial detainee, who is not currently serving a felony sentence in the custody of the commissioner, be held in a space designated as a prison unit. Further, no convicted misdemeanant actively serving a sentence on a misdemeanor shall be held in a space designated as a prison unit.

WV Legislature

§15A-5-7. Pretrial risk assessment.

(a) Within three calendar days of the arrest and placement of any person in a jail, the division shall conduct a pretrial risk assessment using a standardized risk assessment instrument approved and adopted by the Supreme Court of Appeals of West Virginia. The results of all standardized risk and needs assessments are confidential and shall only be provided to the court, court personnel, the prosecuting attorney, defense counsel, and the person who is the subject of the pretrial risk assessment. Upon completion of the assessment, the Division of Corrections and Rehabilitation shall provide it to the magistrate and circuit clerks for delivery to the appropriate circuit judge or magistrate.

(b) The pretrial risk assessment and all oral or written statements made by an individual during risk assessment shall be inadmissible evidence at any criminal or civil trial.

WV Legislature

§15A-5-8. Jail processing fee.

(a) A person committed to be housed in jail by order of magistrate, circuit judge, or by temporary commitment order shall, at the time of initial booking into the jail, pay a processing fee of $30. If the person is unable to pay at the time of booking, the fee shall be deducted, at a rate of 50 percent, from any new deposits made into the person's trust account until the jail processing fee is paid in full. The fee shall be credited to:

(1) The Jail's operating budget if the person is committed to and housed in a jail;

(2) The county commission if the person is committed to and housed in a county jail; or

(3) The municipality if the person is committed to and housed in a municipal jail. The fee should be paid prior to the offender being released.

(b) A refund of a fee collected under this section shall be made to a person who has paid the fee if the person is not convicted of the offense for which the person was booked and the person provides documentation from the court showing that all charges for which the person was booked were dismissed, accurate current name and address and a valid photographic identification. In the case of multiple offenses, if the person is convicted of any of the offenses the fee may not be refunded. If the person is convicted of a lesser included offense or a related offense, no refund may be made.

WV Legislature

§15A-5-9. Ability to refuse offenders.

(a) Notwithstanding any other provision of this code, the commissioner, or any employee or agent of the division, having authority to accept offenders in a jail is not required to accept those offenders if an offender appears to be in need of medical attention of a degree necessitating treatment by a physician. If an offender is refused pursuant to the provisions of this section, he or she may not be accepted for detention until a written clearance is received from a licensed physician reflecting that the offender has been examined and if necessary treated, and which states that it is the physician's medical opinion that the offender can be safely housed in a jail.

(b) Notwithstanding the provisions of subsection (a) of this section, the division, the commissioner, or any employee or agent of the division, may accept an offender into custody who appears to be in need of medical attention of a degree necessitating treatment by a licensed medical professional, who refuses a medical examination or medical treatment to a licensed medical professional, and is immune from civil or criminal liability for accepting the person into custody.

WV Legislature

§15A-5-10. Completing the GOALS Program satisfies the requirements for the DUI Safety and Treatment Program.

Notwithstanding any provision of this code to the contrary, any individual committed to the custody of the Commissioner of the Division of Corrections and Rehabilitation who successfully completes the Getting Over Addictive Lifestyles Successfully Program shall be deemed to have also completed the West Virginia DUI Safety and Treatment Program discussed in §17C-5A-3 of this code for purposes of reinstatement of driving privileges.

The Commissioner of the Division of Corrections and Rehabilitation shall provide each individual that completes the Getting Over Addictive Lifestyles Successfully Program with a certificate of completion. Upon completion of the Getting Over Addictive Lifestyles Successfully Program, the individual shall provide the certificate of completion to the Division of Motor Vehicles. The Division of Motor Vehicles shall accept the certificate as evidence of completion of the DUI Safety and Treatment Program.

WV Legislature