WEST VIRGINIA CODE CHAPTER 25 ARTICLE 6

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§25-6-1. Purpose of article.

The purpose of this article is to establish a program of boot camps that will encourage boot camp inmates to become responsible, productive citizens by providing academic education, social skills, education, physical wellness program, self-discipline programs, substance abuse treatment and vocational education and counseling. It is the aim of the Legislature that such a program will create a more positive environment for both inmates and correctional employees who operate the boot camp; and that will reduce the recidivism rate of persons so incarcerated.

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§25-6-2. Authorization to establish boot camp program.

The commissioner of the Division of Corrections is hereby authorized to establish a program of boot camps that may be used for eligible offenders who are sentenced to serve a term of imprisonment under the custody of the commissioner of corrections and whom the commissioner or the circuit court may permit to serve his or her sentence as a sentence to boot camp in accordance with this article.

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§25-6-3. Definitions.

As used in this article, unless the context clearly requires a different meaning, the term:

(a) "Commissioner" means the commissioner of the Division of Corrections;

(b) "Division" means Division of Corrections; and

(c) "Eligible offender" means eligible offender as defined in section four of this article.

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§25-6-4. Eligibility.

(a) Appropriate inmates may participate in the boot camp program in accordance with the following criteria:

(1) One who is not less than eighteen years of age nor more than twenty-eight years of age;

(2) One who is medically, physically and psychologically fit to participate in the program;

(3) One who volunteers for the program;

(4) One who has been convicted of a felony and, has been sentenced to the custody of the commissioner of corrections for a period of incarceration of not less than one year;

(5) One who was not convicted of murder in the first degree or murder in the second degree;

(6) One who was not convicted of kidnapping;

(7) One who was not convicted of first or second degree sexual assault;

(8) One who was not convicted of any offense pursuant to article eight-d, chapter sixty-one of this code;

(9) One who was not convicted of incest;

(10) One who has not been previously convicted of a felony; and

(11) Such other criteria as the commissioner of the Division of Corrections may promulgate pursuant to chapter twenty-nine-a of this code.

(b) The circuit court of conviction may direct that a person be admitted or excluded from participation in the state boot camp program. The commissioner, pursuant to operational policies and procedures, may in his discretion, direct placement of an inmate in a boot camp program.

(c) Any placement in the boot camp shall be subject to the extent funding is available or appropriated and subject to the availability of space in the boot camp: Provided, That nothing in this section shall give any court the power to hold the Division of Corrections or any officer or employee of the division in contempt of court for failure to adhere to a circuit court directive that a person be placed in the state boot camp program if space or funding is unavailable.

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§25-6-5. Internal policy development.

(a) The Division of Corrections shall promulgate operational procedures and policies for the program which shall require that the pilot program be established at one site, which site shall then be under the control and authority of the Division of Corrections. The program shall consist of all of the following for each eligible offender whom the division permits to serve his or her sentence as a sentence to boot camp:

(1) A period of imprisonment at the boot camp of not more than twelve months which period of imprisonment shall consist of a military style combination of discipline, physical training and physical labor, substance abuse education, employment skills training, social skills training, and psychological evaluation and treatment. Additionally, the state Board of Education and State Superintendent of Schools, pursuant to section five, article twenty, chapter eighteen of this code, respectively, may, as funds are available, establish an education program for those eligible offenders who are not recipients of a high school diploma or a certificate of high school equivalence.

(2) Upon successful completion of the boot camp program, and notwithstanding any other provisions for determining parole eligibility, an inmate shall be released on parole in accordance with this article. Except as otherwise provided in this article, a release on parole under this section shall require that the eligible offender be under intensive supervision by the adult parole authority and may provide for supervision of the offender by the adult parole authority subsequent to the expiration of his or her period of boot camp incarceration under any terms and for any period of time prescribed by the provisions of article twelve, chapter sixty-two of this code.

(b) The policies and procedures for the boot camp program also shall include, but are not limited to, all of the following:

(1) Policies and procedures identifying the facilities under the control and authority of the Division of Corrections designated by the commissioner of corrections that will be used for prisoners serving a sentence to boot camp;

(2) Policies and procedures governing academic education, or psychological testing and evaluation, discipline, physical training and labor for eligible offenders serving a sentence to boot camp based upon the offender's physical conditions and needs: Provided, That the education program shall be administered by the state Board of Education and State Superintendent of Schools in accordance with section thirteen-f, article two, chapter eighteen and section five, article twenty, chapter eighteen of this code, respectively;

(3) Policies and procedures establishing additional criteria the commissioner deems necessary to determine the eligibility of offenders to serve their sentence as a sentence to boot camp;

(4) Policies and procedures establishing a method of intensive supervision for an eligible

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offender who is released on parole of the type described in this section for the remainder of his or her parole sentence, and rules governing the supervision of the offender subsequent to the expiration of his or her parole sentence;

(5) Policies and procedures to effectuate notification to sentencing courts of the performance of eligible offenders serving their sentence of imprisonment as a sentence to boot camp;

(6) Any other policies and procedures that are necessary for the proper operation of the program.

(c) An eligible offender who does not satisfactorily complete the entire period of boot camp incarceration, he or she shall be removed from the program of boot camp and shall be required to serve the remainder of the original sentence of imprisonment which would have been available to the sentencing court had boot camp not been directed by the circuit court or allowed by the commissioner.

(d) If the circuit court directs or the division permits an eligible offender to serve his or her sentence of imprisonment as a sentence to boot camp, the eligible offender shall commence a period of parole of the type described in this article. If an eligible offender violates the conditions of parole, he or she may be declared a parole violator and his or her parole shall be subject to revocation pursuant to the provision of article twelve, chapter sixty-two of this code.

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§25-6-6. Reporting requirements; sunset provisions; performance audit.

(a) The commissioner shall keep sentencing courts informed of the performance of eligible offenders serving their sentences of imprisonment as a sentence to boot camp, including, but not limited to, notice of eligible offenders who fail to satisfactorily complete their entire sentence to boot camp or who satisfactorily complete their entire sentence to boot camp.

(b) The boot camp program shall be subject to termination and sunset, after conduct of performance audit thereon, pursuant to the provisions of article ten, chapter four of this code, five years after the effective date of the creation thereof, together with allowance for subsequent periods applicable to the winding up of the affairs of such boot camp program. The performance audit shall be filed with the president of the Senate and the speaker of the House of Delegates. The performance audit required by this section shall contain all of the following:

(1) A summary of the program as initially established, a summary of all changes in the program made during the period covered by the audit and the reasons for the changes, and a summary of the program as it exists on the date of the preparation of the audit;

(2) A summary of the effectiveness of the program;

(3) An analysis of the total cost of the program, of its cost per inmate who was permitted to serve a sentence to boot camp and who served the entire sentence to boot camp, and of its cost per inmate who was permitted to serve a sentence to boot camp;

(4) A summary of the standards and criteria used by the division of corrections in determining which eligible offenders were permitted to serve their sentence of imprisonment as a sentence to boot camp;

(5) A summary of the characteristics of the eligible offenders who were permitted to serve their sentence of imprisonment as a sentence to boot camp, which summary shall include, but not be limited to, a listing of every offense of which any such eligible offender was convicted or to which any such eligible offender pleaded guilty and in relation to which he or she served a sentence to boot camp, and the total number of such eligible offenders who were convicted of or pleaded guilty to each such offense;

(6) A listing of the number of eligible offenders who were permitted to serve a sentence to boot camp and who did not serve the entire sentence to boot camp, and, to the extent possible, a summary of the length of the terms of imprisonment served by such eligible offenders after they were removed from the program;

(7) A summary of the effect of the program on overcrowding at correctional facilities under the control and authority of the division of corrections;

(8) To the extent possible, an analysis of the rate of the recidivism of eligible offenders who were permitted to serve a sentence to boot camp and who served the entire sentence to boot

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camp;

(9) Recommendations as to legislative changes to the program that would assist in its operation or that could further alleviate overcrowding at correctional facilities, and recommendations as to whether the program should be expanded.

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§25-6-7. Construction and applicability of other acts.

This article shall be liberally construed to accomplish the intent and purposes of the Legislature in adopting it and shall be the sole authority required for the accomplishment of the purposes set forth in this article.

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