WEST VIRGINIA CODE CHAPTER 7 ARTICLE 8

WV Legislature

§7-8-1. Jail to be provided; temporary jail; compensation by county for use of city jail.

The jail of the county shall be the jail provided by the county court as required by law. When a county is without a sufficient jail, or its jail is to be removed, rebuilt or repaired, the circuit court, or the judge thereof in vacation, may adopt the jail of another county as its jail until a sufficient jail is obtained by building or repairing. And persons committed, or to be committed, to the jail of the first-mentioned county, at or after such adoption, and before a sufficient jail is so obtained, shall be conveyed to the jail so adopted. The jail of any county in which the Supreme Court of Appeals may sit may be used as a jail for said court.

The county court of each county, or tribunal created in lieu thereof, shall have authority to provide for and pay to any city, town or village in this state in which no county jail or other place of imprisonment is owned by the county, not more than $1.50¢ for the first day and not more than $1 for each subsequent day that any person charged with a criminal offense may be temporarily held in the jail or lockup belonging to such city, town or village: Provided, That the provisions of this paragraph shall not apply to any person imprisoned for a violation of the ordinances of any city, town or village: Provided further, That in no case shall such payment be made for a period of more than five days for the detention of any one person held under any charge or charges at any one time. No such payment shall be made unless the amount of such charge is certified by the justice or other authority under whose jurisdiction such person is detained in the same manner as other costs in criminal cases are now required by law to be certified. The payment provided for in this section shall be made, in cases of persons charged with felonies or misdemeanors, in the manner and from the proper fund, according to the character of the offense charged, as provided by law for the payment of other costs payable by the county courts in criminal cases.

WV Legislature

§7-8-2. Sheriff to be keeper of jail; appointment of jailer; care of jail; authorizing county commissions and municipalities to seek reimbursement of medical care and certain clothing provided by county jails.

(a) The sheriff of every county shall be the keeper of the jail thereof, but he may, with the assent of the county commission, appoint a jailer of the said county, and may take from him a bond with security conditioned for the faithful performance of his duties. The jailer may be a deputy sheriff and shall take an oath of office like other officers. He shall keep the jail in a clean, sanitary and healthful condition. When any prisoner is sick the jailer shall see that he has adequate medical and dental attention and nursing, and so far as possible keep him separate from other prisoners. Any such medical and nursing care as the jailer may be required to furnish shall be paid for by the county commission. A failure on the part of the jailer to perform any of the duties herein required with respect to any prisoner in his jail shall be a contempt of any court of record under whose commitment such prisoner is confined, and shall be punished as other contempts of such court. The jailer or his agents are authorized to inquire of every prisoner at any time whether he has medical insurance or is covered by a public medical benefit, to further inquire of the prisoner sufficient information to enable the county commission to seek reimbursement of health care costs as provided by this section and to take an assignment of the right to reimbursement from said third parties.

(b) The county commission is hereby authorized to seek reimbursement from every person who receives medical, dental, hospital or eye care or any type of nursing care while incarcerated in the jail at the rate at which the care is generally available in the community for those persons not incarcerated, from their private health care insurers, if any, to the extent of the coverage in effect, from any public agency then providing medical benefits to the person incarcerated to the extent that said public agency would have reimbursed the cost of the care rendered if the person receiving the care was not then incarcerated so long as said reimbursement is not inconsistent with the lawful provisions of the agency's benefit program, or from persons who are liable pursuant to section twenty-two, article three, chapter forty-eight of this code: Provided, That no reimbursement for care shall be required when any medical, dental, hospital or eye care or any type of nursing care has been rendered for injuries or illnesses sustained as a result of an act by another prisoner, injuries or illnesses sustained where an act or omission by the jailer or any deputy sheriff has been a contributing factor, or injuries or illnesses resulting from fire or other catastrophic hazard, all without fault on the part of the prisoner: Provided, however, That no reimbursement for the care received from the person receiving the care or from the person made liable for the care by section twenty-two, article three, chapter forty-eight of this code shall be sought unless that person is able to pay without undue hardship considering the financial resources of the person, the ability to pay of the person and the nature of the burden that reimbursement will impose: Provided further, That the determination of undue hardship by the commission does not preclude the commission from subsequently ordering reimbursement should the person's financial circumstances change: And provided further, That whenever the county commission seeks reimbursement from a municipality for medical, dental, hospital, eye or nursing care authorized by this subsection then the municipality shall

WV Legislature

also be hereby authorized to seek reimbursement as provided for in this subsection for counties under the same conditions.

(c) The county commission is hereby authorized to seek reimbursement from every prisoner for the costs of any shoes and clothing furnished by the jailer and retained by the prisoner after his release from incarceration: Provided, That no reimbursement for the goods authorized by this subsection shall be sought unless the former prisoner is able to pay without undue hardship, considering the financial resources of the person, said persons ability to pay and the nature of the burden that reimbursement will impose: Provided, however, That the determination of undue hardship by the county commission does not preclude the county commission from subsequently ordering repayment should the financial circumstances of such person change: Provided further, That whenever the county commission seeks reimbursement from a municipality for the goods then the municipality shall also be hereby authorized to seek reimbursement for the goods authorized by this subsection as provided for in this subsection for counties under the same conditions.

(d) Subject to any statutes of limitation, if reimbursement pursuant to this section was sought at or within a reasonable time after the release from incarceration of the person receiving the goods or care and if the reimbursement authorized by this section has not been received within one year the county commission or municipality, as the case may be, may prosecute a civil action against any liable person and against any insurer or agency the assignment of whose obligation to pay for care was obtained by the jailer. Any funds paid to or collected by the county commission or municipality pursuant to the provisions of this section shall be deposited to its general fund.

WV Legislature

§7-8-2a. Feeding and care of prisoners; purchase of food and supplies; contract for feeding of prisoners; records; inspection by health officer; payment of costs.

(a) On and after January 1, 1949, the county commission of each county shall provide wholesome and sufficient food and clean and sufficient bedding for all prisoners confined in the county jail, and shall furnish the soaps, disinfectants and other supplies needed by the jailer in the performance of his duties.

(b) The county commission may require the jailer to act as its agent for the purpose of purchasing, preparing and serving food for prisoners. If, however, the jailer is not named as such agent, he may be required to make available to the county commission for use in the preparation and serving of food for prisoners, the services of prisoners, to the number requested by the county commission. The county commission may employ a cook and such other employees as may be necessary in the performance of duties required of it by this article.

(c) The county commission may provide for the feeding of prisoners on a contract basis with any other county, state or municipal governmental agency which at the time of entering into said contract is required or authorized to provide food services for other purposes.

(d) The county commission may provide for the feeding of prisoners on a contract basis with any private provider upon competitive bidding procedures. Solicitation of competitive bids shall be accomplished by publication of a Class II legal advertisement in compliance with article three, chapter fifty-nine of this code. The publication area for such legal advertisement shall be the county in which the affected jail is situate.

(e) All purchases of food, bedding and other supplies shall whenever practicable be made at wholesale. Invoices or itemized statements of account from each vendor of food, bedding and other supplies shall be obtained, and payment of such statements or invoices may not be authorized by the county commission unless and until the county commission has ascertained that the merchandise has been received and that the terms of the purchase have been complied with on the part of the vendor.

(f) The county commission shall keep or cause to be kept a daily record showing the total number of prisoners confined in the jail of the county, the number of prisoners admitted, the number released and the time of each such admittance and of each such release. Such record shall show such information separately as to the prisoners of the county, of each municipality and of the United States. The county commission shall also keep or cause to be kept such other accounts and records as will enable it to show the per capita daily cost of the feeding and care of prisoners in each calendar month.

(g) The county commission shall require to be kept a daily record of food served prisoners and, in all counties having a county health officer, said health officer shall, at least once a month, inspect such lists and make such recommendations and suggestions as he may deem proper regarding daily diets and foods regardless of how the feeding services are provided.

WV Legislature

(h) The sheriff, the jailer or any entity contracting with the county commission to provide food services for prisoners shall be subject to inspection and regulation by the department of health in the same manner as any commercial food service.

(i) All actual costs incurred by the county commission for salaries, for the purchase of food, bedding and other supplies or for services shall be paid out of the same funds as payments to sheriffs of fees for the feeding and care of prisoners were made immediately prior to the effective date of this section. In counties having thirty thousand population or less, the sheriff, or the jailer duly appointed as provided in section two, article eight, chapter seven of this code, shall, if so directed by the county commission, furnish each prisoner with wholesome and sufficient food.

WV Legislature

§7-8-3.

Repealed.

Acts, 2005 Reg. Sess., Ch. 146.

WV Legislature

§7-8-4. Jailer to attend court; prisoners to be received in jail.

The jailer shall attend the sessions of court, be amenable to its authority, and obey its orders. He shall receive into his jail all persons committed by the order of such court or a judge thereof, or justice of any district in the county, or under process issuing from such court, and all persons committed by any lawful authority.

WV Legislature

§7-8-5. Keeper of temporary jail.

The keeper of any jail adopted or designated as provided in section one of this article shall, as to the persons so conveyed thereto, be the jailer of the county from which such persons were so conveyed, until he shall, by proper authority, be ordered to discharge such persons, or deliver them over to the sheriff of the county from which they were so conveyed.

WV Legislature

§7-8-6. Guard for prisoners.

When ordered by a court to do so, or when in his opinion it is necessary for the safekeeping of a prisoner, under charge of or sentence for crime, the jailer shall summon a sufficient guard, and the circuit court or other court of record having jurisdiction of criminal cases, in the county in which the jail is, may allow therefor so much as it deems proper, not exceeding $2.50 a day for each man. The court, before certifying any allowance, shall inquire into the condition of the jail. If it appear that such guard was necessary because of the insecurity of the jail, it shall order the allowance to be certified to the county court and it shall be chargeable to the county; but if otherwise, and the guard was necessary, the allowance shall be certified for payment out of the treasury.

WV Legislature

§7-8-7. Jail physician; clothing for indigent prisoners.

The county court for every county may appoint a physician to attend all persons confined in jail as lunatics, or persons charged with felony or misdemeanor and, such physician shall furnish all medicines and drugs for, and give proper attention to, all such persons at a stipulated, fixed and exclusive annual allowance. The appointment of such physician shall be made in open court. The court, or president thereof in vacation, shall cause notice of the days during court when sealed bids will be received to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty- nine of this code, and the publication area for such publication shall be the county. The bids shall be opened only in court, on the day specified in the notice, if the court then be in session, and, if not, on the first day of the session thereafter, and the appointment awarded to the lowest responsible bidder; and such court shall have the right to reject any or all bids. The person receiving the appointment shall give bond with sufficient surety, to be approved by the court, for the faithful performance of the trust and agreement. The court shall have power to vacate the appointment for failure or neglect of duty; but such vacation shall in no manner affect the liability on the bond. All of the proceedings shall be entered in the order book of the court. The county court may also, after examination, when a person in its jail charged with or convicted of an offense is unable to provide himself with sufficient clothing, direct the jailer to provide clothing, and allow therefor not exceeding $20 in one year. Allowances under this section, on being certified by the court, shall be paid out of the county treasury.

WV Legislature

§7-8-8. Federal prisoners.

The jail of any county may be used for the confinement of persons committed thereto under the laws of the United States. The jailer thereof shall receive, keep and discharge such persons pursuant to the commitment, as provided in the laws of the United States. For a failure of duty as to any such prisoner, the jailer shall be liable to the United States, or to the creditor at whose suit the prisoner is in custody, in like manner as in case of a prisoner committed under the authority of the state. No person arrested on civil process shall, under this section, be committed to any other jail than that of the county within which such person may reside or be found.

The United States or the creditor, as the case may be, shall be responsible to the county court for payment of the costs for the maintenance of any person confined in a county jail as provided in this section.

WV Legislature

§7-8-9. Prisoners under civil process.

The party at whose suit any person is confined in jail under civil process shall be responsible to the county court for the maintenance of such person during such confinement, and payment therefor shall be due monthly. Upon failure of such party to make payment when due, the jailer may discharge the prisoner when ordered to do so by the county court unless the prisoner is held under other process, but the county court shall have the right to sue for the amount due as for other money due on contract. The jailer may require a bond payable to the county court as security for the payment of such maintenance before receiving a person on civil process. Any party who shall have paid for such maintenance of such prisoner may, upon motion before the circuit court of such county, or by action before any justice having jurisdiction, obtain judgment against the person who was so confined, or his personal representative, for the amount so paid, with interest thereon, from the time of such payment.

All provisions of this section which were in effect immediately prior to the passage of this act shall continue in full force and effect until December 31, 1948.

WV Legislature

§7-8-10. Persons privileged from arrest under civil process.

In addition to the privilege of voters and members of the Legislature from arrest, as prescribed by the third section of article IV, and the seventeenth section of article VI of the Constitution, the following persons shall also be privileged from arrest under civil process, except for an escape, to wit: A judge, grand juror, or witness, required by lawful authority to attend at any court or place, during such attendance, and while going to and returning from such court or place; officers and men, while going to, attending, and returning from any muster or court-martial which they are lawfully required to attend; persons attending funerals and ministers of the gospel while engaged in performing religious service in a place where a congregation is assembled and while going to and returning from such place, but such privilege shall only be on the days of such attendance.

WV Legislature

§7-8-11. Deduction from sentence for good conduct.

Every prisoner sentenced to the county jail for a term exceeding six months who, in the judgment of the sheriff, shall faithfully comply with all rules and regulations of said county jail during his term of confinement shall be entitled to a deduction of five days from each month of his sentence.

WV Legislature

§7-8-12. Establishment, operation and maintenance of county work farms.

The county commission of every county is authorized to establish, operate and maintain a county work farm to be operated in connection with the county jail and to be used for the confinement of prisoners assigned thereto as hereinafter provided. The county commission is authorized to purchase land and other property in connection with the establishment of a work farm and to construct buildings, fences and other facilities and to acquire any personal property necessary to maintain and operate the work farm. The cost of the farm shall be paid out of the general county fund or out of any other funds available to the county commission for that purpose.

The county commission is authorized to make needed improvements and repairs for the proper upkeep of the work farm and provide for the necessary food, medical treatment and safekeeping of the prisoners. The work farm shall be operated in conjunction with the county jail. The sheriff of the county shall be responsible for and have the same control of the prisoners assigned to the work farm as he or she has over the prisoners confined in the county jail and shall make any rules necessary for the care and treatment of prisoners assigned thereto, and shall take proper care for their discipline, diet, clothing and safety. He or she shall also determine the type and amount of labor each prisoner performs, and shall perform all other duties with regard to the prisoners confined at the work farm as he or she is required to perform with regard to prisoners in the county jail. He or she may assign deputies, correctional officers or home incarceration supervisors as guards as may be necessary to supervise and insure the safekeeping of the prisoners. Prisoners committed to the work farm shall be required to perform those duties and labor as are reasonably permitted by their physical and mental condition. Provision shall be made for truck and vegetable gardens to be tended by the prisoners, and for the raising of fruit, hogs, poultry and other farm products as can be economically and profitably produced. All food products produced on the work farm shall be used first for feeding prisoners at the work farm or county jail, and any surplus may be used at any other county institution.

The county commission shall employ a superintendent for the county work farm, whose duty will be to supervise the work done and to care for and maintain the property and equipment used in connection therewith and who shall serve until his or her successor is employed as hereinafter provided. The superintendent shall also keep an accurate record of the number of prisoners confined at the county work farm and an accurate record of the cost of operating the work farm and shall make a report thereof to the county commission as the court may require, but at least twice each year. He or she shall also keep a record of the farm products produced on the farm and of the disposition of the products. The superintendent and his or her assistants shall be employed by the county commission on the written recommendation of the sheriff: Provided, That the county commission may not employ any superintendent or assistant superintendent unless it is satisfied that he or she possesses the high character, appropriate ability and energy suitable for that employment.

The judge of the circuit court or other court having jurisdiction for the trial of felony cases in the county may, upon his or her own motion or upon application of any prisoner confined in

WV Legislature

the county jail either in term time or in vacation, transfer any prisoner confined in the county jail except those under conviction for a felony to the work farm or transfer any prisoner confined at the work farm to the county jail. Proper order shall be entered in the order book of the court of the action. In sentencing any person to the county jail the judge may stipulate in the order of sentence whether the person shall be confined in the county jail or confined at the work farm. This provision, however, may not be construed to give authority to magistrates, judges of police courts or mayors of municipalities to sentence persons to the work farm or to transfer persons from the county jail to the work farm.

Any inmate of the work farm who escapes therefrom shall be punished under the same provisions of law as if he or she had escaped from the county jail.

WV Legislature

§7-8-13.

Repealed.

Acts, 2007 Reg. Sess., Ch. 54.

WV Legislature

§7–8-14. Reimbursement for costs of incarceration.

(a) Notwithstanding any provision to the code to the contrary and in addition to any fine, cost assessment or fee authorized or required to be imposed upon a person by virtue of his or her conviction of a criminal provision of this code, or a lawfully enacted ordinance of a political subdivision of this state, a person so convicted and incarcerated in a regional jail by virtue of said conviction may be assessed the costs of up to thirty days of his or her incarceration.

(b) Prior to any person being required to pay the cost of his or her incarceration pursuant to the provisions of subsection (a) of this section, a hearing shall be held before the sentencing court to determine his or her ability to pay. The court may not sentence a defendant to pay his or her costs of incarceration unless he or she is or in the foreseeable future will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(c) A defendant who has been sentenced to pay costs and who is not in willful default in the payment of the costs may at any time petition the sentencing court for remission of the payment of costs or of any unpaid portion of the costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's family or dependents, the court may excuse payment of all or part of the amount due in costs, or modify the method of payment.

WV Legislature