WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED

HOUSE BILL No. 738

(By Mrs. Matthew and Mr. Harmon)

PASSED February 4, 1975

In Effect ninety days from Passage

C 641

FILED 2/14/75
EDGAR W. BROWNELL, JR.
SECRETARY OF STATE
THIS DATE 2/14/75
ENROLLED

H. B. 738

(By Mrs. Withrow and Mr. Harman)

[Passed February 4, 1975; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article one; and sections two, three, four, five, seven, eight, nine, ten, eleven and twelve, article four, all of chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two and six-a, article thirteen, chapter sixty-two of said code, all relating to changing the name of the West Virginia forestry camp for boys at Davis, West Virginia, to Davis center; changing the name of the West Virginia forestry camp for boys at Leckie, West Virginia, to Leckie center and changing the name of Anthony correctional center to Anthony center.

Be it enacted by the Legislature of West Virginia:

That section three, article one; and sections two, three, four, five, seven, eight, nine, ten, eleven and twelve, article four, all of chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections two and six-a, article thirteen, chapter sixty-two of said code be amended and reenacted, all to read as follows:

CHAPTER 25. COMMISSIONER OF PUBLIC INSTITUTIONS.

ARTICLE 1. SUPERVISION AND CONTROL OF STATE INSTITUTIONS.

§25-1-3. Institutions managed by commissioner of public institutions.

1 The state commissioner of public institutions shall manage, direct, control and govern the West Virginia penitentiary, Hut-
tonsville correctional center, West Virginia state prison for
women, West Virginia industrial home for girls, West Virginia
Industrial school for boys, the correctional institution hereto-
fore established as the West Virginia forestry camp for boys
at Davis which is hereby continued as "Davis center," the cor-
rectional institution heretofore established as the West Virginia
forestry camp for boys at Leckie which is hereby continued
as "Leckie center," the correctional institution heretofore es-
tablished as Anthony correctional center which is hereby con-
tinued as "Anthony center," Andrew S. Rowan memorial
home, West Virginia children's home, Denmar state hospital,
Hopemont state hospital, Pinecrest hospital, Fairmont emer-
gency hospital, Welch emergency hospital and such other state
institutions, other than mental or educational, as now are or
may hereafter be created by law.

The commissioner is hereby authorized to establish work
and study release units as extensions and subsidiaries of those
state institutions under his control and authority. Such work
and study release units shall be managed, directed and con-
trolled as provided for in this article.

ARTICLE 4. CENTERS FOR HOUSING YOUTHFUL MALE LAW OF-
FENDERS.

§25-4-2. Establishment of centers.

The West Virginia commissioner of public institutions is
authorized to establish, operate and maintain centers to be
operated in connection with the state penal system as herein
provided.

§25-4-3. Authority of commissioner of public institutions.

The West Virginia commissioner of public institutions is
hereby given authority to acquire land and other property by
purchase, grant, gift or otherwise in connection with the es-
ablishment of centers and to construct such buildings, fences
and other facilities, and to acquire such personal property as
is necessary for the maintenance and operation of such centers;
to direct all needed improvements and repairs necessary for
the proper upkeep of such centers, and to provide for the neces-
sary food, medical treatment and safekeeping of persons con-
§25-4-4. Superintendent.

Each center shall be under the direction of a superintendent, who shall have the minimum qualification of a college degree with a major in sociology or a kindred field and be trained and experienced in dealing with youths. He shall be paid an annual salary to be fixed by the commissioner of public institutions.

The superintendent shall provide a training program which shall include four separate, yet well-integrated, sections, embracing the following: (1) Work program; (2) educational program; (3) recreational program; and (4) individual and group counseling.

§25-4-5. Education instructor; physical education director; probation officer; compensation.

In addition to the superintendents and other employees who may be needed, the center staff shall include a minimum of one education instructor qualified to teach in the secondary schools of this state, one physical education director qualified to teach in the secondary schools of this state, one trained probation officer who has the minimum qualification of a college degree with a major in sociology or a kindred field.

The annual salaries of the education instructor, the physical director and the probation officer shall be fixed by the commissioner of public institutions.

§25-4-7. Physical and mental examination of offenders.

Before the judge of any court of original or competent jurisdiction can transfer a youthful offender to the custody of the commissioner of public institutions to be assigned to a center, such offender shall be given a complete medical examination by a doctor designated by the commissioner of public institutions, and the offender must be free of any communicable disease or other physical defects which would prohibit him from participating in the program of the center. In the event...
there is a question concerning the mental status of an offender, he shall be given an examination by a competent psychiatrist designated by the commissioner of public institutions to determine whether he is fit to participate in the program of the center.

Any offender who is found to have a communicable disease, is feeble-minded, psychotic, mentally ill, or has a history of homosexual activities or arsonist tendencies, shall not be eligible for assignment to a center.

Nothing contained in this section shall prohibit the free transfer of any male youth from one youth facility to another youth facility in the manner provided in article one, chapter twenty-eight of this code.

§25-4-8. Labor, study or activities may be required.

Offenders assigned to centers may be required to labor on the buildings and grounds of the center, in the making of forest roads, for fire prevention and fire fighting, on forestation and reforestation of public lands, on the making of fire trails and firebreaks, on fire suppression, on building or improving public parks or lands, or engage in any studies or activities prescribed or permitted by the superintendent, subject to the approval of the commissioner of public institutions.

§25-4-9. Wages of offenders.

The West Virginia commissioner of public institutions may provide for the payment of wages to the offenders assigned to centers for the work they perform, which amounts shall not exceed fifty cents for each day's work performed, the sums earned to be paid to the parents or dependents of the offender, or to the offender himself, in such manner and in such proportions as the superintendent directs.

§25-4-10. Authority to arrest inmates.

All officers and employees of a center shall have the power of peace officers so far as necessary to arrest center inmates.

§25-4-11. Escape; aiding escape.

Should any inmate of a center escape therefrom or from the custody of an officer or employee of the center, he shall be
guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the county jail for not more than six months, or by both such fine and imprisonment. Any person who knowingly permits or aids any inmate of such center to escape therefrom or conceals him with the intent of enabling him to elude pursuit is guilty of a misdemeanor and on conviction shall be punished in a like manner as provided in this section for an inmate who escapes.

§25-4-12. Independent or cooperative establishment of centers.

The West Virginia commissioner of public institutions may establish centers independently or in cooperation with the natural resources commission of West Virginia on such terms as may be agreed upon by the commissioner of public institutions and the director of the department of natural resources.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 13. DIVISION OF CORRECTION.

§62-13-2. Establishment of division; responsibility for correctional institutions; appointment of wardens; supervision of probationers and parolees; final determinations remaining with board of probation and parole.

The commissioner of public institutions is hereby directed to establish within his department a separate division of correction, which shall consist of a director of correction, such deputy directors as herein provided, and the officers, employees and institutions of such division.

a. The director of the division of correction shall be directly responsible to the commissioner of public institutions for the custody and care of all persons committed for the conviction of a felony and such other persons as may be committed to the commissioner of public institutions or penal or correctional institutions under his jurisdiction and control including the following institutions, and such other institutions as now or may hereafter be established by law:

West Virginia penitentiary at Moundsville, West Virginia;

West Virginia state prison for women at Pence Springs, West Virginia;
West Virginia medium security prison, Huttonsville, West Virginia;
West Virginia industrial home for girls, Salem, West Virginia;
West Virginia industrial home for boys, Grafton, West Virginia;
The correctional institution heretofore established as the West Virginia forestry camp for boys at Davis which is hereby continued as "Davis center";
The correctional institution heretofore established as the West Virginia forestry camp for boys at Leckie which is hereby continued as "Leckie center"; and
The correctional institution heretofore established as Anthony correctional center which is hereby continued as "Anthony center."
The warden or superintendent of each of the aforementioned institutions shall be appointed by the governor by and with the advice and consent of the Senate.

b. The director of the division of correction shall also be charged with the duty of supervising all persons released on probation and placed in the charge of a state probation and parole officer and all persons released on parole under any law of this state. He shall also be charged with the duty of supervising all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the uniform act for out-of-state parolee supervision. The director of the division of correction shall prescribe rules and regulations for the supervision of probationers and parolees under his supervision and control. The director of the division of correction shall succeed to all administrative and supervisory powers of the board of probation and parole and the authority of said board of probation and parole in such matters only.

c. The director of the division of correction, with the approval and consent of the commissioner of public institutions, shall administer all other laws affecting the custody, control, treatment and employment of persons sentenced or committed
to institutions under the supervision of the commissioner of public institutions or affecting the operation and administration of institutions or functions of the division of correction or activities therein.

d. The final determination regarding the release of inmates from penal institutions and the final determination regarding the revocation of paroles from such institutions pursuant to the provisions of article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, shall remain within the exclusive jurisdiction of the board of probation and parole.

§62-13-6a. Payment of jail fees to county courts.

1 The commissioner of public institutions is hereby authorized and directed to pay to the county court of any county jail fees incurred by escapees of any West Virginia center for boys, the West Virginia industrial home for girls or the West Virginia industrial school for boys when said escapees are confined in said county jails. Said jail fee shall not exceed the sum of four dollars per diem per prisoner.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within _______ approved _______ this the _______ day of _______, 1975.

Governor
PRESENTED TO THE
GOVERNOR

Date  2/2/75
Time  3:50 p.m.