

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1975



ENROLLED

HOUSE BILL No. 738

(By Mrs. Mathew and Mr. Herman)



PASSED February 4 1975 FILED  
75 FEB 14 AM 10 34

In Effect ninety days from Passage



FILED IN THE OFFICE OF  
EDGAR W. HUBBELL, 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,
- 2 direct, control and govern the West Virginia penitentiary, Hut-

3 tonsville correctional center, West Virginia state prison for  
4 women, West Virginia industrial home for girls, West Virginia  
5 Industrial school for boys, the correctional institution hereto-  
6 fore established as the West Virginia forestry camp for boys  
7 at Davis which is hereby continued as "Davis center," the cor-  
8 rectional institution heretofore established as the West Virginia  
9 forestry camp for boys at Leckie which is hereby continued  
10 as "Leckie center," the correctional institution heretofore es-  
11 tablished as Anthony correctional center which is hereby con-  
12 tinued as "Anthony center," Andrew S. Rowan memorial  
13 home, West Virginia children's home, Denmar state hospital,  
14 Hopemont state hospital, Pinecrest hospital, Fairmont emer-  
15 gency hospital, Welch emergency hospital and such other state  
16 institutions, other than mental or educational, as now are or  
17 may hereafter be created by law.

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

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

**§25-4-2. Establishment of centers.**

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

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

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

10 fined therein; to employ personnel to operate the centers and to  
11 provide the necessary work and other programs for the of-  
12 fenders assigned to the centers.

**§25-4-4. Superintendent.**

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

7 The superintendent shall provide a training program which  
8 shall include four separate, yet well-integrated, sections, em-  
9 bracing the following: (1) Work program; (2) educational pro-  
10 gram; (3) recreational program; and (4) individual and group  
11 counseling.

**§25-4-5. Education instructor; physical education director; pro-  
bation officer; compensation.**

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

8 The annual salaries of the education instructor, the physical  
9 director and the probation officer shall be fixed by the com-  
10 missioner of public institutions.

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

1 Before the judge of any court of original or competent  
2 jurisdiction can transfer a youthful offender to the custody of  
3 the commissioner of public institutions to be assigned to a cen-  
4 ter, such offender shall be given a complete medical examina-  
5 tion by a doctor designated by the commissioner of public insti-  
6 tutions, and the offender must be free of any communicable  
7 disease or other physical defects which would prohibit him  
8 from participating in the program of the center. In the event

9 there is a question concerning the mental status of an offender,  
10 he shall be given an examination by a competent psychiatrist  
11 designated by the commissioner of public institutions to deter-  
12 mine whether he is fit to participate in the program of the  
13 center.

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

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

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

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

**§25-4-9. Wages of offenders.**

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

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

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

**§25-4-11. Escape; aiding escape.**

1 Should any inmate of a center escape therefrom or from the  
2 custody of an officer or employee of the center, he shall be

3 guilty of a misdemeanor, and, upon conviction thereof, shall  
 4 be fined not more than five hundred dollars, or imprisoned  
 5 in the county jail for not more than six months, or by both  
 6 such fine and imprisonment. Any person who knowingly per-  
 7 mits or aids any inmate of such center to escape therefrom  
 8 or conceals him with the intent of enabling him to elude pur-  
 9 suit is guilty of a misdemeanor and on conviction shall be  
 10 punished in a like manner as provided in this section for an  
 11 inmate who escapes.

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

1 The West Virginia commissioner of public institutions may  
 2 establish centers independently or in cooperation with the na-  
 3 tural resources commission of West Virginia on such terms as  
 4 may be agreed upon by the commissioner of public institutions  
 5 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.**

1 The commissioner of public institutions is hereby directed  
 2 to establish within his department a separate division of cor-  
 3 rection, which shall consist of a director of correction, such  
 4 deputy directors as herein provided, and the officers, em-  
 5 ployees and institutions of such division.

6 a. The director of the division of correction shall be di-  
 7 rectly responsible to the commissioner of public institutions for  
 8 the custody and care of all persons committed for the con-  
 9 viction of a felony and such other persons as may be com-  
 10 mitted to the commissioner of public institutions or penal or  
 11 correctional institutions under his jurisdiction and control in-  
 12 cluding the following institutions, and such other institutions  
 13 as now or may hereafter be established by law:

14 West Virginia penitentiary at Moundsville, West Virginia;  
 15 West Virginia state prison for women at Pence Springs,  
 16 West Virginia;

17 West Virginia medium security prison, Huttonsville, West  
18 Virginia;

19 West Virginia industrial home for girls, Salem, West Vir-  
20 ginia;

21 West Virginia industrial home for boys, Grafton, West Vir-  
22 ginia;

23 The correctional institution heretofore established as the  
24 West Virginia forestry camp for boys at Davis which is hereby  
25 continued as "Davis center";

26 The correctional institution heretofore established as the  
27 West Virginia forestry camp for boys at Leckie which is hereby  
28 continued as "Leckie center"; and

29 The correctional institution heretofore established as An-  
30 thony correctional center which is hereby continued as "An-  
31 thony center."

32 The warden or superintendent of each of the aforementioned  
33 institutions shall be appointed by the governor by and with  
34 the advice and consent of the Senate.

35 b. The director of the division of correction shall also be  
36 charged with the duty of supervising all persons released on  
37 probation and placed in the charge of a state probation and  
38 parole officer and all persons released on parole under any  
39 law of this state. He shall also be charged with the duty of  
40 supervising all probationers and parolees whose supervision  
41 may have been undertaken by this state by reason of any in-  
42 terstate compact entered into pursuant to the uniform act for  
43 out-of-state parolee supervision. The director of the division  
44 of correction shall prescribe rules and regulations for the sup-  
45 ervation of probationers and parolees under his supervision  
46 and control. The director of the division of correction shall  
47 succeed to all administrative and supervisory powers of the  
48 board of probation and parole and the authority of said board  
49 of probation and parole in such matters only.

50 c. The director of the division of correction, with the ap-  
51 proval and consent of the commissioner of public institutions,  
52 shall administer all other laws affecting the custody, control,  
53 treatment and employment of persons sentenced or committed

54 to institutions under the supervision of the commissioner of  
55 public institutions or affecting the operation and administration  
56 of institutions or functions of the division of correction or ac-  
57 tivities therein.

58 d. The final determination regarding the release of in-  
59 mates from penal institutions and the final determination re-  
60 garding the revocation of paroles from such institutions pur-  
61 suant to the provisions of article twelve, chapter sixty-two of  
62 the code of West Virginia, one thousand nine hundred thirty-  
63 one, as amended, shall remain within the exclusive jurisdiction  
64 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  
2 and directed to pay to the county court of any county jail fees  
3 incurred by escapees of any West Virginia center for boys, the  
4 West Virginia industrial home for girls or the West Virginia  
5 industrial school for boys when said escapees are confined in  
6 said county jails. Said jail fee shall not exceed the sum of four  
7 dollars per diem per prisoner.

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

*James L. Davis*  
Chairman Senate Committee

*Clarence C. Whitson*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*J. McIlwain*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*W. T. Brotherton, Jr.*  
President of the Senate

*Lewis N. McManus*  
Speaker House of Delegates

The within approved this the 11th  
day of February, 1975.

*Arthur A. Chace, Jr.*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 2/7/75

Time 3:50 p.m.