WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED

HOUSE BILL No. 1254

(By Miss. .Shuman and Mr. Delifano)

Passed .................. March 10, 1979

In Effect Ninety Days From Passage
ENROLLED

H. B. 1254

(By Miss Shuman and Mr. Schifano)

[Passed March 10, 1979; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-eight, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to commutation of sentence for good conduct, classification of prisoners, and changing the name and composition of the prison classification committees and disciplinary committees.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. THE PENITENTIARY.

§28-5-28. Commutation for good conduct.

1 In order to encourage prison discipline, a distinction may be made in the treatment of prisoners so as to extend to all such as are orderly, industrious and obedient, comforts and privileges according to their merit. The reward to be bestowed on prisoners for good conduct shall consist of such relaxation of strict prison rules and extension of social privileges as may be consistent with proper discipline. Commutation of time for good conduct, industry and obedience shall be granted by the superintendent, and twenty days per month deduction shall be made from the term or terms of sentences of all prisoners in Class I, and ten days per month deduction shall be made from the term or terms of sentences of all prisoners in Class II as
hereinafter provided, when no charge of misconduct has been
sustained against a prisoner. A prisoner under two or more
cumulative sentences shall be allowed commutation as if they
were all one sentence. For each sustained charge of miscon-
duct in violation of any rule known to the prisoner, including
escape or attempt to escape, any part or all of the commutation
which shall have accrued in favor of the prisoner to the date of
said misconduct may be forfeited and taken away by the super-
intendent upon the recommendation of the commutation
committee or the overtime work assignment committee which
are hereinafter established unless, in case of escape, the priso-
ner voluntarily returns without expense to the state, such for-
feiture shall be set aside by the superintendent. No overtime
allowance or credits, in addition to the commutation of time
herein provided for good conduct, may be deducted from the
term or terms of sentences with the exception that for extra
meritorious conduct on the part of any prisoner, he may be
recommended to the board of probation and parole and to the
governor for increased commutation or for a pardon or
parole.

There is hereby established a commutation committee of
three members which shall be composed of the associate or
deputy superintendent, teacher, counselor, or ranking correc-
tional officer as may be determined by the commissioner.

The commutation committee, as soon as practicable, shall
classify all prisoners according to their industry, conduct and
obedience in four classifications: Class I, Class II, Class III,
Class IV and reclassify any of such prisoners from time to time
as in their opinion the circumstances may require. Class III
are those prisoners who have not performed in areas of assign-
ments or have displayed misconduct and will receive no com-
mutation of time while in this class. Class IV, special exempt,
are those prisoners impaired because of age, mental or phy-
sical restrictions, confinement in a protection unit, in out-to-
court or out-to-hospital status, or for any other reason deter-
mined by the commutation committee, and who may, if con-
duct warrants, be awarded deductions in accordance with the
limits of Class I or Class II classification. The superintendent
shall keep or cause to be kept a conduct record in card or
ledger form and a calendar card on each inmate showing all classifications, changes of classifications and forfeitures of commutation of time and reasons therefor. As soon as practicable, the superintendent shall change the conduct records of prisoners now in the penitentiary to conform with said conduct record and calendar card.

There is hereby established an overtime work assignment committee of three members which shall be composed of the deputy or associate superintendent, teacher, counselor, or ranking correctional officer as may be determined by the commissioner. Should any prisoner be removed from any overtime job assignment because of misconduct, an appeal shall lie to the overtime work assignment committee, and in the event of an adverse decision by this committee, the prisoner so removed by reason of misconduct shall have the right to appeal to the commissioner, whose decision shall be final.

When present overtime job assignments carrying more than twenty days per month credit are vacated by the present incumbent for any reason, said job assignment shall not be renewed for a credit of more than twenty days per calendar month.

Ten days commutation of time for good conduct may be awarded to a prisoner for the time credited by the court as time served on the sentence or sentences in local correctional facilities for each month so credited.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence G. Cheston Jr.  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Jesse ceiling  
Clerk of the Senate

H. L. Blakenship  
Clerk of the House of Delegates

W. J. Burgamy  
President of the Senate

Joyce Mc Nair, Jr.  
Speaker House of Delegates

The within is approved this the 26 day of March, 1979.

Jackie Robinson  
Governor