

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-26-79

Time 2:25 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1979

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ENROLLED

HOUSE BILL No. 1254

(By Miss Shuman + Mr. Schifano)

— ● —

Passed March 10, 1979

In Effect Ninety Days From Passage



No. 1254

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
2 made in the treatment of prisoners so as to extend to all such
3 as are orderly, industrious and obedient, comforts and privi-
4 leges according to their merit. The reward to be bestowed on
5 prisoners for good conduct shall consist of such relaxation of
6 strict prison rules and extension of social privileges as may
7 be consistent with proper discipline. Commutation of time for
8 good conduct, industry and obedience shall be granted by the
9 superintendent, and twenty days per month deduction shall be
10 made from the term or terms of sentences of all prisoners in
11 Class I, and ten days per month deduction shall be made from
12 the term or terms of sentences of all prisoners in Class II as

13 hereinafter provided, when no charge of misconduct has been
14 sustained against a prisoner. A prisoner under two or more
15 cumulative sentences shall be allowed commutation as if they
16 were all one sentence. For each sustained charge of miscon-
17 duct in violation of any rule known to the prisoner, including
18 escape or attempt to escape, any part or all of the commutation
19 which shall have accrued in favor of the prisoner to the date of
20 said misconduct may be forfeited and taken away by the sup-
21 erintendent upon the recommendation of the commutation
22 committee or the overtime work assignment committee which
23 are hereinafter established unless, in case of escape, the priso-
24 ner voluntarily returns without expense to the state, such for-
25 feiture shall be set aside by the superintendent. No overtime
26 allowance or credits, in addition to the commutation of time
27 herein provided for good conduct, may be deducted from the
28 term or terms of sentences with the exception that for extra
29 meritorious conduct on the part of any prisoner, he may be
30 recommended to the board of probation and parole and to the
31 governor for increased commutation or for a pardon or
32 parole.

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

37 The commutation committee, as soon as practicable, shall
38 classify all prisoners according to their industry, conduct and
39 obedience in four classifications: Class I, Class II, Class III,
40 Class IV and reclassify any of such prisoners from time to time
41 as in their opinion the circumstances may require. Class III
42 are those prisoners who have not performed in areas of assign-
43 ments or have displayed misconduct and will receive no com-
44 mutation of time while in this class. Class IV, special exempt,
45 are those prisoners impaired because of age, mental or phy-
46 sical restrictions, confinement in a protection unit, in out-to-
47 court or out-to-hospital status, or for any other reason deter-
48 mined by the commutation committee, and who may, if con-
49 duct warrants, be awarded deductions in accordance with the
50 limits of Class I or Class II classification. The superintendent
51 shall keep or cause to be kept a conduct record in card or

52 ledger form and a calendar card on each inmate showing all
53 classifications, changes of classifications and forfeitures of
54 commutation of time and reasons therefor. As soon as practi-
55 cable, the superintendent shall change the conduct records of
56 prisoners now in the penitentiary to conform with said conduct
57 record and calendar card.

58 There is hereby established an overtime work assignment
59 committee of three members which shall be composed of the
60 deputy or associate superintendent, teacher, counselor, or
61 ranking correctional officer as may be determined by the com-
62 missioner. Should any prisoner be removed from any overtime
63 job assignment because of misconduct, an appeal shall lie
64 to the overtime work assignment committee, and in the event
65 of an adverse decision by this committee, the prisoner so re-
66 moved by reason of misconduct shall have the right to appeal
67 to the commissioner, whose decision shall be final.

68 When present overtime job assignments carrying more than
69 twenty days per month credit are vacated by the present in-
70 cumbent for any reason, said job assignment shall not be re-
71 newed for a credit of more than twenty days per calendar
72 month.

73 Ten days commutation of time for good conduct may be
74 awarded to a prisoner for the time credited by the court as time
75 served on the sentence or sentences in local correctional fa-
76 cilities 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

Plarence C. Christian Jr
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Joe Wilson Jr
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

H. D. Brantley
President of the Senate

Clayton M. Lee, Jr
Speaker House of Delegates

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

John R. Ralston
Governor

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