

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-26-80

Time 10:50 am

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

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ENROLLED

Committee Substitute for
SENATE BILL NO. 558

(By Mr. *Jones*)

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PASSED *March 8,* 1980

In Effect *ninety days from* Passage



710: 558

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 558

(MR. JONES, *original sponsor*)

[Passed March 8, 1980; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article four, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article one, chapter twenty-eight of said code; to repeal section three of said article one; to amend and reenact sections two, four and five, article three of said chapter; and to repeal section three of said article three, all relating to commitment of youthful male and female offenders to the custody of the commissioner of corrections; age limits; physical, educational and psychological examinations; cost of examinations to be borne by committing county; alternative examinations ordered by court prior to disposition; results of examinations and court orders to accompany youths when committed; authority of commissioner of corrections for transfer and placement of youths; examination of female youth to be in presence of a matron; compensation of physician and matron for examination of female youth.

Be it enacted by the Legislature of West Virginia:

That section seven, article four, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section two, article one, chapter twenty-eight of said code be amended and reen-

acted; that section three of said article one be repealed; that sections two, four and five, article three, chapter twenty-eight of said code be amended and reenacted; and that section three of said article three be repealed, all to read as follows:

CHAPTER 25. DEPARTMENT OF CORRECTIONS.

ARTICLE 4. CENTERS FOR HOUSING YOUTHFUL MALE LAW OFFENDERS.

§25-4-7. Physical, educational and psychological examinations; transfer and placement.

1 Every youthful offender committed hereunder shall be
2 given complete physical, educational and psychological
3 examinations in the same manner and under the same
4 protections and requirements of subsections (b) and (c),
5 section two, article one, chapter twenty-eight of this
6 code. In addition thereto, all admission, transfer and place-
7 ment requirements and authority provided to the com-
8 missioner in subsections (d) and (e), section two, article
9 one, chapter twenty-eight of this code shall be applicable.

CHAPTER 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.

ARTICLE 1. COMMITMENT OF YOUTHFUL MALE OFFENDERS.

§28-1-2. Commitment; age limits; physical, educational and psychological examinations; admission; transfer and placement.

1 (a) Any male youth between the ages of ten and
2 eighteen years may be committed to the custody of the
3 commissioner of corrections by a circuit court of this state
4 in the manner prescribed in article five, chapter forty-nine
5 of this code; and further, any male youth who has been
6 adjudged delinquent pursuant to subdivision one, section
7 four, article one of chapter forty-nine of this code, who,
8 as a result thereof, was placed on probation and has been
9 found, in a proceeding pursuant to ~~a~~ procedural require- ^{the}
10 ments of article five, chapter forty-nine of this code, to
11 have violated a term of probation, prior to the attainment
12 of his twentieth birthday, which constitutes a criminal
13 offense, may be committed to the custody of the commis-
14 sioner of corrections as a youthful offender.

15 (b) Every youth committed hereunder shall, following
16 the dispositional proceeding, be transferred to the place
17 or places designated by the commissioner of corrections
18 for complete physical, educational and psychological
19 examinations, including all appropriate tests, to be com-
20 pleted as soon as possible, the completion of the physical
21 examinations to be within twenty days. Such youth
22 shall be housed in a manner so as to prevent the spread of
23 infectious disease. Following disposition and prior to
24 transfer to the custody of the commissioner of corrections,
25 each youth shall be allowed to visit with his relatives,
26 without being committed to jail, for a period of not less
27 than one hour. The cost of the examinations herein shall
28 be borne by the committing county. The youth shall be
29 provided all treatment and rehabilitation indicated by
30 such examinations.

31 In lieu of the physical examinations and tests provided
32 for herein, the court may, in the absence of objection, have
33 the county health officer or other local health care facility
34 perform physical and mental examinations and tests, so
35 long as such examinations and tests are performed prior
36 to the dispositional proceeding. Except as otherwise pro-
37 vided by law, no child shall be committed to a jail follow-
38 ing a dispositional proceeding solely to await a physical,
39 educational or mental examination or the results thereof.

40 (c) All such examinations shall be private. No youth
41 who is mentally ill or significantly mentally retarded shall
42 be committed to, or retained by, the commissioner of
43 corrections, but shall be returned to the committing court
44 for further disposition. No youth who has a serious in-
45 fectious disease shall be retained in the custody of the
46 commissioner of corrections, but shall be transferred to an
47 appropriate treatment facility. Detailed medical records
48 shall be kept of every youth.

49 (d) The results of any such physical, educational and
50 psychological examinations, together with a copy of the
51 petition, the adjudicatory order and the dispositional
52 order shall accompany every youth committed to the
53 commissioner of corrections, without which such youth
54 shall not be accepted. The commissioner, or his designated

55 representative, shall review the records of each youth
56 committed to assure that no youth is illegally detained in
57 an inappropriate facility or custodial situation.

58 (e) The commissioner of corrections shall have the
59 authority to transfer and place such youth in any of the
60 centers or homes or halfway programs which shall be
61 established, and in less restrictive settings, whether under
62 his jurisdiction or private nonprofit residential facilities,
63 as he may deem appropriate to promote the rehabilitation
64 of such youth. To the extent possible, no youth under the
65 age of fifteen shall be in regular contact with youths
66 between the ages of sixteen and eighteen.

ARTICLE 3. INDUSTRIAL HOME FOR GIRLS.

§28-3-2. Commitment; age limits.

1 Any female youth between the ages of twelve and eigh-
2 teen years may be committed to the custody of the com-
3 missioner of corrections by a circuit court of this state in
4 the manner described in article five, chapter forty-nine of
5 this code; and further, any such youth who has been
6 adjudged delinquent pursuant to subdivision one, section
7 four, article one of chapter forty-nine of this code, who,
8 as a result thereof, was placed on probation and has been
9 found in a proceeding pursuant to the procedural require-
10 ments of article five, chapter forty-nine of this code to
11 have violated a term of probation, prior to the attainment
12 of her twentieth birthday, which constitutes a criminal
13 offense, may be committed to the custody of the commis-
14 sioner of corrections.

§28-3-4. Physical, educational and psychological examinations; admission; transfer and placement.

1 Every female youth committed hereunder shall be
2 given complete physical, educational and psychological
3 examinations in the same manner and under the same
4 protections and requirements of subsections (b) and (c),
5 section two, article one, chapter twenty-eight of this code.
6 In addition thereto, all such examinations shall be in pri-
7 vate, but there shall be present during the examination a
8 woman of good character and of mature years. In addi-
9 tion thereto, all admission, transfer and placement

10 requirements and authority provided to the commissioner
11 in subsections (d) and (e), section two, article one, chap-
12 ter twenty-eight of this code shall be applicable.

§28-3-5. Compensation of physician and matron.

1 In a proceeding for the commitment of a female youth
2 to the commissioner of corrections, the compensation of
3 the physician and of the matron present during such
4 examination shall be fixed by the court and taxed as other
5 costs.

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

James L. Davis
Chairman Senate Committee

Clarence C. Lehestang Jr
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

John C. Welles
Clerk of the Senate

VA Blankenship
Clerk of the House of Delegates

W. C. Brotherton
President of the Senate

Clarence N. Lee Jr
Speaker House of Delegates

The within is approved this the 26
day of March, 1980.

John D. Ralston
Governor



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OFFICE OF THE GOVERNOR

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