WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1988

ENROLLED

SENATE BILL NO. 285

(By Senators Luch and Burdette)

PASSED March 12, 1988

In Effect 90 DAYS FROM Passage
ENROLLED

Senate Bill No. 283

(BY SENATORS LUCHT AND BURDETT)

[Passed March 12, 1988; in effect ninety days from passage.]

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirteen-f; to amend and reenact section five, article twenty of said chapter; to amend and reenact section four, article four, chapter twenty-five of said code; to amend and reenact sections one and five, article one, chapter twenty-eight of said code; to amend and reenact section ten, article three, chapter twenty-eight of said code; to amend and reenact section four, article thirteen, chapter sixty-two of said code, all relating to education of institutionalized school-age juveniles within facilities operated by the department of corrections; providing for administration and provision of such services; requiring the department of education to designate a director of educational services for institutionalized juveniles who shall hire a principal or lead teacher for each facility and institution; requiring state department of education to provide educational services now the responsibility of employees of department of corrections; permitting qualified educational personnel of correctional facilities to become school personnel of the state department of education; transferring funds for such educational services from the department of corrections to the department of education; and making consequential
changes in certain statutes relating to the departments of education and corrections to reflect changes caused by this transfer of responsibility.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirteen-f; that section five, article twenty, chapter eighteen of said code be amended and reenacted; that section four, article four, chapter twenty-five of said code be amended and reenacted; that sections one and five, article one, chapter twenty-eight of said code be amended and reenacted; that section ten, article three, chapter twenty-eight of said code be amended and reenacted; and that sections four, article thirteen, chapter sixty-two of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-13f. Responsibility for administration and provision of educational services in state correctional institutions.

The state board is responsible for the administration of programs for the education of all institutionalized school-age juveniles within facilities operated by the department of corrections. School age juvenile means in this article any individual who would, if not institutionalized, be entitled to attend the public schools in accordance with (1) section five, article two of this chapter; (2) sections fifteen and eighteen, article five of this chapter; or (3) section one, article twenty of this chapter. To strengthen the administration of educational programs, there shall be: (1) A full-time principal or lead teacher at each department of corrections facility having any school-age juveniles and (2) a full-time director of educational services for institutionalized school-age juveniles employed by the department of education. Such principal or lead teachers shall be employed by and responsible to the director of educational services.

Classroom teachers and other school personnel shall be hired and provided as necessary to all institutionalized juveniles by the state department of education to the extent
necessary to provide adequate and appropriate educational
opportunity. Adequate and appropriate educational
opportunity requires education services for
institutionalized school-age juveniles on a twelve-month
basis, excepting only normal school holidays and those
additional days determined by the state board of education
in consultation with the appropriate department head to be
necessary. School personnel shall be responsible to the
principal or lead teacher while providing educational
services but shall comply with rules established by the
department of corrections to ensure security and safety in
the facility. Educational personnel employed at and by
correctional facilities and institutions shall be permitted to
transfer to comparable positions as school personnel of the
state department of education if those personnel meet the
qualifications established for those positions by the state
department of education. The daily rate of pay of
educational personnel employed by the state department of
education shall be equivalent to the daily rate of pay of the
comparable position in the public schools of the county
where the institution is located.

There shall be a separate line item account of the budget
of the state department of education for the education of
institutionalized school-age juveniles. All money that the
Legislature may annually appropriate for that purpose
shall be placed into this account. This account shall be used
solely for the education of such juveniles. Money for
education of juveniles in the department of corrections
shall be deposited in that account and accounted for
separately.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-5. Powers and duties of state superintendent.

The state superintendent of schools shall have power to
organize, promote, administer and be responsible for:

1) Stimulating and assisting county boards of
education in establishing, organizing and maintaining
special schools, classes, regular class programs, home-
teaching and visiting-teacher services.

2) Cooperating with all other public and private
agencies engaged in relieving, curing, educating
and rehabilitating exceptional children, and in helping
coordinate the services of such agencies.
(3) Preparing the necessary rules, regulations, formula for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the state board of education.

(4) Receiving from county boards of education their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private schools, and correctional facilities as provided in section thirteen-f, article two, chapter eighteen of this code, receive an education in accordance with state and federal laws.

(6) Performing such other duties and assuming such other responsibilities in connection with this program as may be needed.

(7) Nothing herein contained shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teacher services out of funds available from local revenue.

CHAPTER 25. DEPARTMENT OF CORRECTIONS.

ARTICLE 4. CENTERS FOR HOUSING YOUTHFUL MALE LAW OFFENDERS.

§25-4-4. Superintendent.

1 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 related field and be trained and experienced in dealing with youths. He shall be paid an annual salary to be fixed by the commissioner of corrections.

2 At each center the superintendent shall provide a training program which shall include the following four separate, well-integrated components: (1) Work program; (2) educational program in accordance with section thirteen-f,
ARTICLE 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.

ARTICLE 1. COMMITMENT OF YOUTHFUL MALE OFFENDERS.

§28-1-1. Care of youthful male offenders.

The state commissioner of corrections shall be charged with the care, training and reformation of male youths of the state committed to his custody. Education of the male youths is subject to the provisions of section thirteen-f, article two, chapter eighteen of this code. All state facilities and institutions for such purpose shall be managed and controlled as prescribed in article one, chapter twenty-five of this code.

§28-1-5. Rules and regulations.

The state commissioner of corrections shall have authority to make such rules and regulations for the management and government of the facilities for youthful offenders under his control, and the instruction, discipline, training, employment and disposition of the boys and their transportation to and from the various facilities, subject to section thirteen-f, article two, chapter eighteen of this code, as the commissioner may deem proper.

ARTICLE 3. INDUSTRIAL HOME FOR YOUTH.

§28-3-10. Rules and regulations.

The state commissioner of corrections may make such rules and regulations for the management and government of the industrial home, and the instruction, discipline, training, employment and disposition of the youth of the home, and their transportation to and from the home, subject to section thirteen-f, article two, chapter eighteen of this code, as the commissioner may deem proper.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 13. CORRECTIONS MANAGEMENT.

§62-13-4. Powers and duties of commissioner or director generally; compensation and funds of inmates.

To accomplish the purposes of this article, the
commissioner (or the director of corrections management if one is appointed) shall:

(a) Exercise general supervision over the administration of the institutions under the jurisdiction of the department;
(b) Establish separate subdivisions, to be headed by deputy directors, of adult services, youth services, and other subdivisions as he deems advisable, which may be headed by the same or different deputy directors, which said deputy directors must be graduates of an accredited college or university with a degree in sociology, psychology, social science or a related field;
(c) Establish rules and regulations in writing governing all subdivisions and institutions within the department;
(d) Establish an in-service training program for personnel of the department;
(e) Classify the institutions of the department, varying according to such factors as security features, program, age and sex of inmates, physical stature or size, character of inmates;
(f) Establish a system of classification of inmates, through a reception and examination procedure, and in each institution a classification committee and procedure for assignment of inmates within the programs of the institution;
(g) Cooperate with the department of education in providing for the education of inmates in all institutions within the department, subject to section thirteen-f, article two, chapter eighteen of this code;
(h) Supervise the treatment, custody and discipline of all inmates and the maintenance of the institutions and their industries;
(i) Establish a system of compensation for inmates of the correctional institutions of the state who perform good and satisfactory work either within the industrial program or in the servicing and maintenance of the correctional institutions or any other institutions or camps within the state. The commissioner (or the director, with the approval of the commissioner) may establish a graduated scale of compensation to be paid to inmates in accordance with their skill in industry.

The principal officer of any correctional institution, on request of an inmate, may expend up to one half of the
money so earned by such inmate on behalf of the family of such inmate. The remainder of the money so earned, after deducting amounts expended as aforesaid, shall be accumulated to the credit of the inmate and be paid to the inmate at such times as may be prescribed by such rules and regulations. Such funds so accumulated on behalf of inmates shall be held by the principal officer of each institution, under a bond approved by the attorney general.

The accumulation of such total funds, not necessary for current distribution, shall be invested, with the approval of the commissioner or as appropriate, the director through the West Virginia municipal bond commission, in short term bonds or treasury certificates or equivalent of the United States. Bonds and certificates so purchased shall remain in the custody of the state treasurer. The earnings from investments so made shall be reported to the principal officer of each institution from time to time, as earned, and shall be credited to the respective accounts of such institutions by the commission.

When such earnings are transferred to the respective institutions, they shall be credited by the principal officer to the credit of and for the benefit of the inmates' activities account.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In 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 ...this the 28th day of ...1988.

Governor