

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

HOUSE BILL No. 4780

(By ~~the~~ Delegates Roof + Jones)



Passed March 10, 1990

In Effect 90 Days from Passage

ENROLLED
H. B. 4780

(By DELEGATES ROOP AND JONES)

[Passed March 10, 1990; in effect ninety days from passage.]

AN ACT to amend article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seventeen, relating to permitting the commissioner of the division of corrections to monitor telephone calls from inmates and patients of penal or correctional institutions; providing for procedures and restrictions; providing an exception for calls to attorneys; and granting the commissioner authority to promulgate legislative rules.

Be it enacted by the Legislature of West Virginia:

That article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section seventeen, to read as follows:

ARTICLE 1. ORGANIZATION AND INSTITUTIONS.

§25-1-17. Monitoring of inmate and patient telephone calls; procedures and restrictions; calls to attorneys excepted.

- 1 (a) The commissioner of corrections or his or her
- 2 designee shall have authority to monitor, intercept,
- 3 record, and disclose any telephone calls from an adult
- 4 inmate or patient of any state penal or correctional
- 5 institution in accordance with the following provisions:

6 (1) All adult inmates or patients of the state penal or
7 correctional institutions shall be notified in writing that
8 their telephone conversations may be monitored, inter-
9 cepted, recorded, and disclosed;

10 (2) Except as provided for in this subsection, only the
11 commissioner and his or her designee shall have access
12 to any such recordings of telephone calls;

13 (3) A notice shall be prominently placed on or
14 immediately near every telephone on which monitoring
15 may take place;

16 (4) The contents of a telephone conversation shall be
17 disclosed only if the disclosure is:

18 (A) Necessary to safeguard the orderly operation of
19 the penal or correctional institution;

20 (B) Necessary for the investigation of a crime;

21 (C) Necessary for the prevention of a crime;

22 (D) Necessary for the prosecution of a crime; or

23 (E) Required by an order of a court of competent
24 jurisdiction;

25 (5) All recordings of telephone conversations, unless
26 being disclosed in accordance with the next preceding
27 subdivision, shall be destroyed within twelve months
28 after the recording; and

29 (6) To safeguard the sanctity of the attorney-client
30 privilege, a separate telephone line shall be made
31 available and no conversation between an inmate or
32 patient and an attorney shall be monitored, intercepted,
33 recorded or disclosed in any manner.

34 (b) The commissioner shall promulgate legislative
35 rules in accordance with the provisions of chapter
36 twenty-nine-a of this code for such monitoring, inter-
37 cepting, recording or disclosing of telephone calls.

38 (c) The provisions of this section shall only apply to
39 those persons serving a sentence of imprisonment while
40 imprisoned in a facility under the direction of the
41 commissioner of corrections.

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

Fredrick L. Perkey

Chairman Senate Committee

Brian V. Kelly

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell E. Adams

Clerk of the Senate

Donald G. Kopp

Clerk of the House of Delegates

Keith Sandette

President of the Senate

Bob Cole

Speaker of the House of Delegates

The within *is approved* this the *26th*
day of *March* 1990.

Anton Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/21/90

Time 3:35 pm

RECEIVED

1900 MAR 26 AM 3:51

OFFICE OF THE ATTORNEY
GENERAL