WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

ENROLLED

HOUSE BILL No. 4780

(By Delegate Roop & 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.

(a) The commissioner of corrections or his or her designee shall have authority to monitor, intercept, record, and disclose any telephone calls from an adult inmate or patient of any state penal or correctional institution in accordance with the following provisions:
(1) All adult inmates or patients of the state penal or correctional institutions shall be notified in writing that their telephone conversations may be monitored, intercepted, recorded, and disclosed;

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

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

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

   (A) Necessary to safeguard the orderly operation of the penal or correctional institution;
   (B) Necessary for the investigation of a crime;
   (C) Necessary for the prevention of a crime;
   (D) Necessary for the prosecution of a crime; or
   (E) Required by an order of a court of competent jurisdiction;

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

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

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

(c) The provisions of this section shall only apply to those persons serving a sentence of imprisonment while imprisoned in a facility under the direction of the commissioner of corrections.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor
PRESENTED TO THE
GOVERNOR
Date 3/21/90
Time 3:35 PM