

HB 5013

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WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1994



ENROLLED

HOUSE BILL No. 5013

(By ~~Delegate~~ *Mr. Spocko, Mr. Chambers,*
and Delegate Burk)
[By Request of the Executive]

Passed March 15, 1994

In Effect July 1, 1994 Passage

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H. B. 5013

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE BURK)
[By Request of the Executive]

[Passed March 15, 1994; in effect July 1, 1994.]

AN ACT to amend chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six, relating to the establishment of a boot camp program by the commissioner of corrections; eligibility; parole supervision; reporting requirements; sunset provisions; and performance audit.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. BOOT CAMP.

§25-6-1. Purpose of article.

1 The purpose of this article is to establish a program
2 of boot camps that will encourage boot camp inmates to
3 become responsible, productive citizens by providing
4 academic education, social skills, education, physical
5 wellness program, self-discipline programs, substance
6 abuse treatment and vocational education and counsel-
7 ing. It is the aim of the Legislature that such a program
8 will create a more positive environment for both inmates
9 and correctional employees who operate the boot camp;
10 and that will reduce the recidivism rate of persons so

11 incarcerated.

§25-6-2. Authorization to establish boot camp program.

1 The commissioner of the division of corrections is
2 hereby authorized to establish a program of boot camps
3 that may be used for eligible offenders who are
4 sentenced to serve a term of imprisonment under the
5 custody of the commissioner of corrections and whom
6 the commissioner or the circuit court may permit to
7 serve his or her sentence as a sentence to boot camp in
8 accordance with this article.

§25-6-3. Definitions.

1 As used in this article, unless the context clearly
2 requires a different meaning, the term:

3 (a) "Commissioner" means the commissioner of the
4 division of corrections;

5 (b) "Division" means division of corrections; and

6 (c) "Eligible offender" means eligible offender as
7 defined in section four of this article.

§25-6-4. Eligibility.

1 (a) Appropriate inmates may participate in the boot
2 camp program in accordance with the following
3 criteria:

4 (1) One who is not less than eighteen years of age nor
5 more than twenty-eight years of age;

6 (2) One who is medically, physically and psychologi-
7 cally fit to participate in the program;

8 (3) One who volunteers for the program;

9 (4) One who has been convicted of a felony and has
10 been sentenced to the custody of the commissioner of
11 corrections for a period of incarceration of not less than
12 one year;

13 (5) One who was not convicted of murder in the first
14 degree or murder in the second degree;

15 (6) One who was not convicted of kidnapping;

16 (7) One who was not convicted of first or second degree
17 sexual assault;

18 (8) One who was not convicted of any offense pursuant
19 to article eight-d, chapter sixty-one of this code;

20 (9) One who was not convicted of incest;

21 (10) One who has not been previously convicted of a
22 felony; and

23 (11) Such other criteria as the commissioner of the
24 division of corrections may promulgate pursuant to
25 chapter twenty-nine-a of this code.

26 (b) The circuit court of conviction may direct that a
27 person be admitted or excluded from participation in
28 the state boot camp program. The commissioner,
29 pursuant to operational policies and procedures, may in
30 his discretion, direct placement of an inmate in a boot
31 camp program.

32 (c) Any placement in the boot camp shall be subject
33 to the extent funding is available or appropriated and
34 subject to the availability of space in the boot camp:
35 *Provided*, That nothing in this section shall give any
36 court the power to hold the division of corrections or any
37 officer or employee of the division in contempt of court
38 for failure to adhere to a circuit court directive that a
39 person be placed in the state boot camp program if
40 space or funding is unavailable.

§25-6-5. Internal policy development.

1 (a) The division of corrections shall promulgate
2 operational procedures and policies for the program
3 which shall require that the pilot program be estab-
4 lished at one site, which site shall then be under the
5 control and authority of the division of corrections. The
6 program shall consist of all of the following for each
7 eligible offender whom the division permits to serve his
8 or her sentence as a sentence to boot camp:

9 (1) A period of imprisonment at the boot camp of not
10 more than twelve months which period of imprisonment
11 shall consist of a military style combination of discipline,
12 physical training and physical labor, substance abuse

13 education, employment skills training, social skills
14 training, and psychological evaluation and treatment.
15 Additionally, the commissioner shall establish an
16 education program for those eligible offenders who are
17 not recipients of a high school diploma or a certificate
18 of high school equivalence.

19 (2) Upon successful completion of the boot camp
20 program, and notwithstanding any other provisions for
21 determining parole eligibility, an inmate shall be
22 released on parole in accordance with this article.
23 Except as otherwise provided in this article, a release
24 on parole under this section shall require that the
25 eligible offender be under intensive supervision by the
26 adult parole authority and may provide for supervision
27 of the offender by the adult parole authority subsequent
28 to the expiration of his or her period of boot camp
29 incarceration under any terms and for any period of
30 time prescribed by the provisions of article twelve,
31 chapter sixty-two of this code.

32 (b) The policies and procedures for the boot camp
33 program also shall include, but are not limited to, all
34 of the following:

35 (1) Policies and procedures identifying the facilities
36 under the control and authority of the division of
37 corrections designated by the commissioner of correc-
38 tions that will be used for prisoners serving a sentence
39 to boot camp;

40 (2) Policies and procedures governing academic
41 education, or psychological testing and evaluation,
42 discipline, physical training and labor for eligible
43 offenders serving a sentence to boot camp based upon
44 the offender's physical conditions and needs;

45 (3) Policies and procedures establishing additional
46 criteria the commissioner deems necessary to determine
47 the eligibility of offenders to serve their sentence as a
48 sentence to boot camp;

49 (4) Policies and procedures establishing a method of
50 intensive supervision for an eligible offender who is
51 released on parole of the type described in this section

52 for the remainder of his or her parole sentence, and
53 rules governing the supervision of the offender subse-
54 quent to the expiration of his or her parole sentence;

55 (5) Policies and procedures to effectuate notification to
56 sentencing courts of the performance of eligible offend-
57 ers serving their sentence of imprisonment as a sentence
58 to boot camp;

59 (6) Any other policies and procedures that are
60 necessary for the proper operation of the program.

61 (c) An eligible offender who does not satisfactorily
62 complete the entire period of boot camp incarceration,
63 he or she shall be removed from the program of boot
64 camp and shall be required to serve the remainder of
65 the original sentence of imprisonment which would have
66 been available to the sentencing court had boot camp not
67 been directed by the circuit court or allowed by the
68 commissioner.

69 (d) If the circuit court directs or the division permits
70 an eligible offender to serve his or her sentence of
71 imprisonment as a sentence to boot camp, the eligible
72 offender shall commence a period of parole of the type
73 described in this article. If an eligible offender violates
74 the conditions of parole, he or she may be declared a
75 parole violator and his or her parole shall be subject to
76 revocation pursuant to the provision of article twelve,
77 chapter sixty-two of this code.

**§25-6-6. Reporting requirements; sunset provisions;
performance audit.**

1 (a) The commissioner shall keep sentencing courts
2 informed of the performance of eligible offenders
3 serving their sentences of imprisonment as a sentence
4 to boot camp, including, but not limited to, notice of
5 eligible offenders who fail to satisfactorily complete
6 their entire sentence to boot camp or who satisfactorily
7 complete their entire sentence to boot camp.

8 (b) The boot camp program shall be subject to
9 termination and sunset, after conduct of performance
10 audit thereon, pursuant to the provisions of article ten,
11 chapter four of this code, five years after the effective

12 date of the creation thereof, together with allowance for
13 subsequent periods applicable to the winding up of the
14 affairs of such boot camp program. The performance
15 audit shall be filed with the president of the Senate and
16 the speaker of the House of Delegates. The performance
17 audit required by this section shall contain all of the
18 following:

19 (1) A summary of the program as initially established,
20 a summary of all changes in the program made during
21 the period covered by the audit and the reasons for the
22 changes, and a summary of the program as it exists on
23 the date of the preparation of the audit;

24 (2) A summary of the effectiveness of the program;

25 (3) An analysis of the total cost of the program, of its
26 cost per inmate who was permitted to serve a sentence
27 to boot camp and who served the entire sentence to boot
28 camp, and of its cost per inmate who was permitted to
29 serve a sentence to boot camp;

30 (4) A summary of the standards and criteria used by
31 the division of corrections in determining which eligible
32 offenders were permitted to serve their sentence of
33 imprisonment as a sentence to boot camp;

34 (5) A summary of the characteristics of the eligible
35 offenders who were permitted to serve their sentence of
36 imprisonment as a sentence to boot camp, which
37 summary shall include, but not be limited to, a listing
38 of every offense of which any such eligible offender was
39 convicted or to which any such eligible offender pleaded
40 guilty and in relation to which he or she served a
41 sentence to boot camp, and the total number of such
42 eligible offenders who were convicted of or pleaded
43 guilty to each such offense;

44 (6) A listing of the number of eligible offenders who
45 were permitted to serve a sentence to boot camp and
46 who did not serve the entire sentence to boot camp, and,
47 to the extent possible, a summary of the length of the
48 terms of imprisonment served by such eligible offenders
49 after they were removed from the program;

50 (7) A summary of the effect of the program on

51 overcrowding at correctional facilities under the control
52 and authority of the division of corrections;

53 (8) To the extent possible, an analysis of the rate of
54 the recidivism of eligible offenders who were permitted
55 to serve a sentence to boot camp and who served the
56 entire sentence to boot camp;

57 (9) Recommendations as to legislative changes to the
58 program that would assist in its operation or that could
59 further alleviate overcrowding at correctional facilities,
60 and recommendations as to whether the program should
61 be expanded.

§25-6-7. Construction and applicability of other acts.

1 This article shall be liberally construed to accomplish
2 the intent and purposes of the Legislature in adopting
3 it and shall be the sole authority required for the
4 accomplishment of the purposes set forth in this article.



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

[Handwritten signature]
Chairman Senate Committee

[Handwritten signature]
Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect July 1, 1994.

[Handwritten signature]
Clerk of the Senate

[Handwritten signature]
Clerk of the House of Delegates

[Handwritten signature]
President of the Senate

[Handwritten signature]
Speaker of the House of Delegates

The within *is approved* this the *5th*
day of *April*, 1994.

[Handwritten signature]
Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/94

Time 9:35 am