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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 2895

(By Delegates Leach, Beane, Seacrist,
Kelley and Proudfoot)



Passed March 13, 1998

In Effect Ninety Days from Passage

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COMMITTEE SUBSTITUTE

FOR

H. B. 2895

(By DELEGATES LEACH, BEANE, SEACRIST, KELLEY AND PROUDFOOT)

[Passed March 13, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the treatment of mentally ill persons in correctional facilities; authorizing the commissioner of corrections to establish policies relating to treatment and providing that certain rules and policies are not applicable to correctional facilities.

Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. ORGANIZATION AND INSTITUTIONS.

§25-1-5. Rules and regulations.

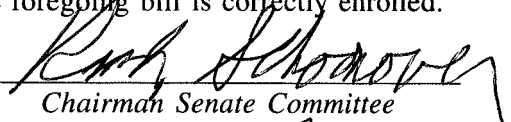
1 The commissioner of corrections is authorized to
2 make rules for the proper execution of his or her duties
3 and powers; adopt rules for the government of the
4 institutions named or referred to in section three of this
5 article; adopt rules for the administration of the financial

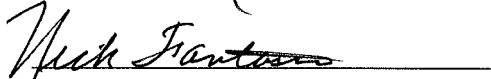
6 and business affairs of the institutions named or referred
7 to in section four of this article; and establish policies
8 regarding the treatment of mentally ill inmates, which
9 reflect the safety and security concerns specific to
10 correctional facilities. Notwithstanding any provisions of
11 law to the contrary, the division of corrections is not
12 subject to the rules promulgated by the board of health
13 for the treatment of mentally ill patients nor the mandates
14 developed pursuant to *E. H. v. Matin*.

15 Consistent with the provisions of this article, the
16 commissioner shall prescribe the duties of the persons
17 connected with the management of institutions. When any
18 of the guards, attendants, or other employees are
19 uniformed, the commissioner shall prescribe the design, or
20 designs, of the uniforms, which shall be dissimilar to the
21 design of the uniform worn by the members of the state
22 police. When the institution is located in, or in close
23 proximity to, a municipality, no guard, attendant or other
24 employee may wear the cap or caps designed by the
25 commissioner as part of the uniform, when not actually on
26 duty connected with his or her employment, nor shall the
27 municipality adopt for its police officers or other
28 employees a uniform which is similar in design to the
29 uniform adopted by the commissioner.

30 Any person violating the provisions of this article is
31 guilty of a misdemeanor and, upon conviction shall be
32 punished by a fine of not more than ten dollars, or by
33 imprisonment for ten days, or both.

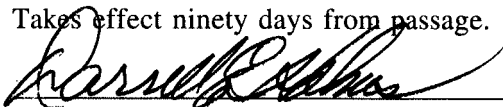
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

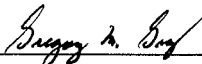

Chairman Senate Committee

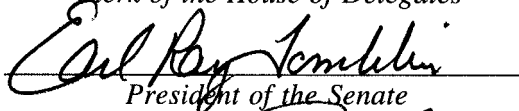

Chairman House Committee

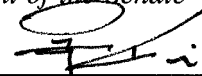
Originating in the House.

Takes effect ninety days from passage.

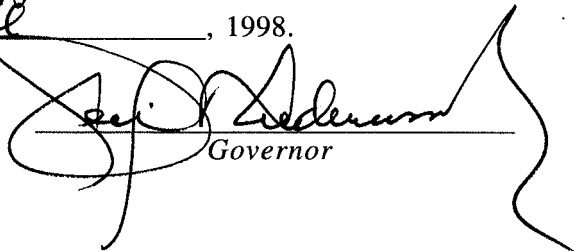

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 6th
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/98

Time 70:15 Am