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
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 make rules for the proper execution of his or her duties and powers; adopt rules for the government of the institutions named or referred to in section three of this article; adopt rules for the administration of the financial
and business affairs of the institutions named or referred
to in section four of this article; and establish policies
regarding the treatment of mentally ill inmates, which
reflect the safety and security concerns specific to
correctional facilities. Notwithstanding any provisions of
law to the contrary, the division of corrections is not
subject to the rules promulgated by the board of health
for the treatment of mentally ill patients nor the mandates
developed pursuant to *E. H. v. Matin*.

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

Any person violating the provisions of this article is
guilty of a misdemeanor and, upon conviction shall be
punished by a fine of not more than ten dollars, or by
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