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REGULAR SESSION, 1999



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 552

(By Senator LOVE, ET AL)



PASSED MARCH 13 1999
In Effect NINETY DAYS FROM Passage

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STATE OF WEST VIRGINIA

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 552

(SENATORS LOVE, HELMICK, SCHOONOVER, HUNTER AND ROSS,
original sponsors)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to repeal sections three, four and five, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section six, article thirteen, chapter sixty-two of said code; to amend and reenact section eleven, article one, chapter twenty-five of said code; and to further amend said article by adding thereto four new sections, designated sections eleven-a, eleven-b, eleven-c and eleven-d, all relating to the administration and personnel of the division of corrections; requiring preemployment drug testing; allowing designated employees to carry concealed deadly weapons; and allowing the commissioner to designate employees as correctional peace officers.

Be it enacted by the Legislature of West Virginia:

That sections three, four and five, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section six, article thirteen, chapter sixty-two of said code be repealed; that section eleven, article one, chapter twenty-five of said code be amended and reenacted; and that said article be further amended by adding thereto four new sections, designated sections eleven-a, eleven-b, eleven-c and eleven-d, all to read as follows:

ARTICLE 1. ORGANIZATION AND INSTITUTIONS.

§25-1-11. Officers and employees of corrections institutions.

1 The commissioner of corrections shall appoint a warden
2 for each institution under the control of the division of
3 corrections. The commissioner of corrections, or his or her
4 designee, has the authority to manage and administer the
5 finances, business, operations, security and personnel
6 affairs of correctional units under the jurisdiction of the
7 division of corrections. All persons employed at a state-
8 operated correctional institution or correctional unit are
9 subject to the supervision and approval of the chief
10 executive officer and the authority of the commissioner of
11 corrections, or his or her designee, except those persons
12 employed by the state board of education, pursuant to
13 section thirteen-f, article two, chapter eighteen of this
14 code.

15 The warden or administrator of each institution or
16 correctional unit has the power to hire all assistants and
17 employees required for the management of the institution
18 in his or her charge; but the number of the assistants and
19 employees, and their compensation, shall first be approved
20 by the state commissioner of corrections. All prospective
21 correctional employees shall pass a preemployment drug
22 screening prior to being hired. It is the duty of the com-
23 missioner of corrections to investigate any complaint made
24 against the warden or administrator of any institution, and
25 also against any other officer or employee thereof, if the
26 same has not been investigated.

§25-1-11a. Duties of wardens and administrators; bond; residence.

1 The warden or administrator is the chief executive
2 officer of his or her assigned correctional institution and
3 has the responsibility for the overall management of all
4 operations within his or her assigned institution. He or she
5 is in charge of its internal police and management, and
6 shall provide for feeding, clothing, working and taking
7 care of the inmates, subject to the control of the state
8 commissioner of corrections. The warden or administrator
9 shall promptly enforce all orders and rules made by the
10 commissioner. He or she shall protect and preserve the
11 property of the state and may for that purpose punish the
12 inmates in the manner authorized by the commissioner of
13 corrections. The warden or administrator shall have the
14 custody and control of all the real and personal property
15 at the correctional institution, subject to the orders of the
16 commissioner of corrections. The warden or administrator
17 shall be bonded by the board of risk and insurance man-
18 agement. The warden shall reside in the warden's resi-
19 dence at the correctional institution or in another resi-
20 dence approved by the commissioner of corrections.

§25-1-11b. Appointment of deputy warden; duties; bond.

1 The warden of a correctional institution, with the
2 approval of the commissioner, shall hire a deputy warden.
3 The deputy warden's duties shall be fixed by the warden,
4 as approved by the commissioner. In the absence of the
5 warden the deputy warden shall perform all the duties
6 required of the warden. The deputy warden shall be
7 bonded by the board of risk and insurance management.

§25-1-11c. Hiring of other assistants and employees; duties of correctional employees; right to carry weapons; powers of correctional peace officers.

1 (a) The warden or administrator of the correctional
2 institutions or units shall, in the manner provided in
3 section eleven of this article, hire all assistants and
4 employees required for the management of the correc-
5 tional institutions or units, including a sufficient number
6 of correctional employees to preserve order and enforce

7 discipline among the inmates, to prevent escapes and to
8 remove all persons convicted and sentenced to the custody
9 of the division of corrections, from the place confined to a
10 correctional institution, all of whom shall be under the
11 control of the warden. The commissioner may issue a
12 certificate authorizing any correctional employee who has
13 successfully completed the division's training program for
14 firearms certification, which shall be the equivalent of that
15 required of deputy sheriffs, to carry firearms and con-
16 cealed weapons while on duty. Any correctional employee
17 authorized by the commissioner has the right, without a
18 state license, to carry firearms and concealed weapons
19 while on duty. Each correctional employee, authorized by
20 the commissioner, shall carry with him or her a certificate,
21 authorizing him or her to carry a firearm or concealed
22 weapon when performing his or her official duties as a
23 correctional employee, bearing the official signature of the
24 commissioner and warden or administrator. The right is
25 extended to a correctional employee during the time the
26 employee travels from place to place within the state for
27 the purpose of removing prisoners from jails to a correc-
28 tional institution of the division of corrections, and during
29 the time the employee is pursuing and apprehending
30 escaped inmates, and during any other time the employee
31 is performing official duties as a correctional employee.
32 No correctional employee shall have the right to carry a
33 firearm or concealed weapon for any other purpose or
34 during any other time, including when traveling to and
35 from the employee's residence and a correctional institu-
36 tion, unless the employee has obtained a state license in
37 the manner prescribed in article seven, chapter sixty-one
38 of this code.

39 (b) The commissioner of corrections may designate
40 correctional employees as correctional peace officers who
41 have the following powers:

42 (1) To enforce rules and laws necessary for the control
43 and management of correctional units and the mainte-
44 nance of public safety that is within the scope of responsi-
45 bilities of the division of corrections;

46 (2) To detain persons for violations of state law commit-
47 ted on the property of any state correctional institution;

48 (3) To conduct investigations, pursue and apprehend
49 escapees from the custody of the commissioner or any state
50 correctional institution; and

51 (4) To execute criminal process on persons in the custody
52 of the commissioner, or who surrender themselves at any
53 state correctional institution.

**§25-1-11d. Compensation of employees approved by commis-
sioner; traveling and other expenses; payment of
salaries.**

1 The commissioner of corrections shall approve the
2 salaries of all employees of the division of corrections.
3 Salaries shall be commensurate with their duties and
4 responsibilities, but no meals or other emoluments of any
5 kind shall be furnished, given or paid to the employee as
6 all or part of their salary. The employees may be provided
7 meals, household facilities and supplies as may be neces-
8 sary for them to perform their duties, if the employees
9 agree to pay the reasonable cost as established by the
10 commissioner of corrections. In the event of an emergency,
11 such as a riot or other disturbance, the commissioner may
12 authorize meals be provided to employees at no cost.
13 Additionally, the commissioner may establish a procedure
14 to reimburse employees reasonable costs in the event the
15 employee's personal property is stolen or damaged by an
16 inmate. All persons employed under this article are
17 entitled to be reimbursed for necessary traveling and other
18 expenses. The salaries, expenses and appropriations
19 provided for the employees under the commissioner's
20 jurisdiction shall be paid in the same manner as are those
21 of other state employees and agencies and on a payment
22 schedule set forth by the state auditor.

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

Kerry Thomas

Chairman Senate Committee

Joe F. Smith

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

David Holmes

Clerk of the Senate

Bryan M. Burd

Clerk of the House of Delegates

Carl Ray Tomblin

President of the Senate

John S. Alderson

Speaker House of Delegates

The within.....*approved*..... this the *15*.....
Day of.....*April*....., 1999

John S. Alderson

Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/99

Time 10:50 am