WEST VIRGINIA LEGISLATURE

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
ENROLLED

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article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section six, article thirteen, chapter sixty-two of said code be repealed; that section eleven, article one, chapter twenty-five of said code be amended and reenacted; and that said article be further amended by adding thereto four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.

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

The warden or administrator of each institution or correctional unit has the power to hire all assistants and employees required for the management of the institution in his or her charge; but the number of the assistants and employees, and their compensation, shall first be approved by the state commissioner of corrections. All prospective correctional employees shall pass a preemployment drug screening prior to being hired. It is the duty of the commissioner of corrections to investigate any complaint made against the warden or administrator of any institution, and also against any other officer or employee thereof, if the same has not been investigated.
§25-1-11a. Duties of wardens and administrators; bond; residence.

1 The warden or administrator is the chief executive officer of his or her assigned correctional institution and has the responsibility for the overall management of all operations within his or her assigned institution. He or she is in charge of its internal police and management, and shall provide for feeding, clothing, working and taking care of the inmates, subject to the control of the state commissioner of corrections. The warden or administrator shall promptly enforce all orders and rules made by the commissioner. He or she shall protect and preserve the property of the state and may for that purpose punish the inmates in the manner authorized by the commissioner of corrections. The warden or administrator shall have the custody and control of all the real and personal property at the correctional institution, subject to the orders of the commissioner of corrections. The warden or administrator shall be bonded by the board of risk and insurance management. The warden shall reside in the warden's residence at the correctional institution or in another residence approved by the commissioner of corrections.

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

1 The warden of a correctional institution, with the approval of the commissioner, shall hire a deputy warden. The deputy warden's duties shall be fixed by the warden, as approved by the commissioner. In the absence of the warden the deputy warden shall perform all the duties required of the warden. The deputy warden shall be 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 institutions or units shall, in the manner provided in section eleven of this article, hire all assistants and employees required for the management of the correctional institutions or units, including a sufficient number of correctional employees to preserve order and enforce
The commissioner of corrections may designate correctional employees as correctional peace officers who have the following powers:

(1) To enforce rules and laws necessary for the control and management of correctional units and the maintenance of public safety that is within the scope of responsibilities of the division of corrections;
(2) To detain persons for violations of state law committed on the property of any state correctional institution;

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

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

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

The commissioner of corrections shall approve the salaries of all employees of the division of corrections. Salaries shall be commensurate with their duties and responsibilities, but no meals or other emoluments of any kind shall be furnished, given or paid to the employee as all or part of their salary. The employees may be provided meals, household facilities and supplies as may be necessary for them to perform their duties, if the employees agree to pay the reasonable cost as established by the commissioner of corrections. In the event of an emergency, such as a riot or other disturbance, the commissioner may authorize meals be provided to employees at no cost. Additionally, the commissioner may establish a procedure to reimburse employees reasonable costs in the event the employee's personal property is stolen or damaged by an inmate. All persons employed under this article are entitled to be reimbursed for necessary traveling and other expenses. The salaries, expenses and appropriations provided for the employees under the commissioner's jurisdiction shall be paid in the same manner as are those of other state employees and agencies and on a payment schedule set forth by the state auditor.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... this the...

Day of...

, 1999

Governor
PRESENTED TO THE
GOVERNOR
Date 3/30/45
Time 10:50 a.m.