SENATE BILL NO. 507

(BY SENATORS TRUMP AND PLYMALE)

[APPROVED MARCH 6, 2015; IN EFFECT FROM PASSAGE.]
AN ACT to amend and reenact §31-20-5e of the Code of West Virginia, 1931, as amended, relating to allowing emails and other types of electronic communications to and from regional jail inmates be monitored, intercepted, recorded and disclosed; and providing exception for attorney-client privileged communications.

Be it enacted by the Legislature of West Virginia:

That §31-20-5e of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-5e. Monitoring of inmate telephone calls and electronic communications; procedures and restrictions; attorney-client privilege protected and exempted.

1 (a) The executive director or his or her designee is authorized to monitor, intercept, record and disclose the content of telephone calls and, if available to inmates, emails and other forms of electronic communications to or from inmates housed in regional jails in accordance with the following provisions:
(1) All inmates housed in regional jails shall be notified in writing that their telephone conversations, emails and other forms of electronic communications may be monitored, intercepted, recorded and disclosed;

(2) Only the executive director and his or her designee shall have access to recordings of inmates’ telephone calls, emails and other forms of electronic communications unless disclosed pursuant to subdivision (4) of this subsection;

(3) Notice shall be prominently placed on or immediately near every telephone or other communication device that may be monitored;

(4) The contents of inmates’ telephone calls, emails and other forms of electronic communications may be disclosed to the appropriate law-enforcement agency only if the disclosure is:

   (A) Necessary to safeguard the orderly operation of the regional jails;

   (B) Necessary for the investigation of a crime;

   (C) Necessary for the prevention of a crime;

   (D) Necessary for the prosecution of a crime;

   (E) Required by an order of a court of competent jurisdiction; or

   (F) Necessary to protect persons from physical harm or the threat of physical harm;

(5) Recordings of telephone calls may be destroyed after twelve months unless further retention is required for
disclosure pursuant to subdivision (4) of this subsection or, in the discretion of the executive secretary, for other good cause.

(b) To safeguard the sanctity of the attorney-client privilege, an adequate number of telephone lines that are not monitored shall be made available for telephone calls between inmates and their attorneys. Such calls shall not be monitored, intercepted, recorded or disclosed in any matter. If inmates have access to email or other forms of electronic communications, the executive director shall develop a system that allows inmates to confidentially communicate with their attorneys thereby safeguarding the sanctity of the attorney-client privilege.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mark P. Maynard  
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Mark D. Obenshain  
Clerk of the Senate

Clerk of the House of Delegates

Bill H. Doakes  
President of the Senate

Speaker of the House of Delegates

The within bill was approved this the 13th Day of March, 2015.

Governor
PRESENTED TO THE GOVERNOR

MAR 10 2015

Time ___ 3:13 PM ___