

H. B. 2254

(By Delegate Rodighiero)

[Introduced January 23, 2015; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §31-20-31 of the Code of West Virginia, 1931, as amended, relating to allowing the Executive Director of the West Virginia Regional Jail and Correctional Facility Authority to establish a work program only for qualified inmates sentenced to a regional jail facility and not awaiting transfer to a state correctional facility; and specifying minimum requirements for the program.

Be it enacted by the Legislature of West Virginia:

That §31-20-31 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.**

§31-20-31. Work program.

(a) The Executive Director of the West Virginia Regional Jail and Correctional Facility Authority may propose rules for legislative approval in accordance with the provisions of article

1 three, chapter twenty-nine-a of this code to establish ~~at each regional jail facility~~ a work program for
2 qualified inmates sentenced to a regional jail facility and not awaiting transfer to a state correctional
3 facility, and to establish at each regional jail facility under his or her jurisdiction an inmate trustee
4 account. The authority shall establish guidelines and qualifications to allow ~~inmates sentenced to~~
5 ~~a regional jail facility~~ a qualified inmate to be gainfully employed with local businesses and
6 governmental entities, ~~as part of a job program:~~ including county commissions or other qualified
7 city or county government agencies, with the consent of the inmate. ~~Provided, That with regard to~~
8 ~~an inmate sentenced to the Division of Corrections that is domiciled at a regional jail facility under~~
9 ~~the supervision of the authority, the Commissioner of the Division of Corrections or designee shall~~
10 ~~first determine the eligibility of such inmate for participation in the work program authorized by this~~
11 ~~section and consent to such inmate's participation therein~~ A qualified inmate does not include an
12 inmate convicted of a sexual offense or a violent felony, or otherwise known to be a danger to the
13 general public.

14 Inmates participating in a work release program pursuant to this section may be granted up
15 to sixty days of good time and may be released from incarceration up to sixty days immediately prior
16 to the scheduled completion of their respective sentence or period of incarceration.

17 (b) The administrator or designee of each regional jail facility shall receive and take charge
18 of the money of all inmates in his or her regional jail and all money sent to the inmates or earned by
19 the inmates as compensation for work performed under this section. The administrator or designee
20 shall credit the money and earnings to the inmate entitled to it and shall keep an accurate account of
21 all the money so received, which account is subject to examination by the executive director or
22 designee. The administrator or designee shall deposit the moneys in one or more responsible banks

1 in accounts to be designated inmate trustee account.

2 (c) For each inmate sentenced to the Division of Corrections participating in a work program
3 authorized by this section, the administrator or designee of the regional jail facility shall keep in an
4 account at least ten percent of all money earned during the inmate's incarceration and pay the money
5 to the inmate at the time of the inmate's release. The administrator may authorize the inmate to
6 withdraw money from his or her mandatory savings for the purpose of preparing the inmate for
7 reentry into society.

8 (d) An inmate who works in work programs established under this section shall make
9 reimbursement to the authority toward the cost of his or her incarceration to be credited to the agency
10 billed for that incarceration. ~~Provided, That~~ Prior to directing a qualified inmate to make
11 reimbursement under this section, the executive director or designee shall consider the following:

12 (1) The inmate's ability to pay;

13 (2) The nature and extent of the inmate's responsibilities to his or her dependents, if any;

14 (3) The length of probable incarceration under the court's sentence; and

15 (4) The effect, if any, that reimbursement might have on the inmate's rehabilitation.

16 (e)(1) The administrator shall deduct from the earnings of each qualified inmate legitimate
17 court-ordered financial obligations including, but not limited to, child support payments, liens and
18 any other court-ordered financial obligation. The executive director shall develop a policy that
19 outlines the formula for the distribution of the qualified inmate's income and the formula shall
20 include a percentage deduction, not to exceed forty percent in the aggregate, for any court ordered
21 victim restitution, court fees and child support obligations owed under a support order, including an
22 administrative fee not to exceed one dollar, consistent with the provisions of subsection (c), section

1 four, article fourteen, chapter forty-eight, to support the authority's administration of this financial
2 service.

3 (2) In the event that the qualified inmate's income is subject to garnishment for child support
4 enforcement deductions, it shall be calculated on the net wages after taxes, legal financial obligations
5 and garnishment. ~~Provided, That~~ However, nothing in this section limits the authority of the Bureau
6 for Child Support Enforcement of the Department of Health and Human Resources from taking
7 collection action against an inmate's moneys, assets or property.

8 (f) The administrator or designee of a regional jail facility, upon request of an inmate to
9 release funds, on behalf of the family of the inmate, may authorize the release of funds up to one half
10 of the money earned by the inmate participating in a work program as authorized by this section
11 ~~Provided, That~~ if the court-ordered financial obligations provided in subsection (e) of this section
12 and other fees owed by the inmate including, but not limited to, the costs of incarceration and any
13 restitution for facility rule infractions, have been paid. The remainder of the money earned, after
14 deducting amounts expended as authorized, shall be accumulated to the credit of the inmate and be
15 paid to the inmate at times as may be prescribed by rules. The funds so accumulated on behalf of
16 inmates shall be held by the administrator or designee of each institution under a bond approved by
17 the Attorney General.

18 (g) The administrator or designee shall deliver to the inmate at the time he or she leaves the
19 regional jail facility, or as soon as practicable after departure, moneys and earnings then credited to
20 the inmate. ~~Provided, That~~ However, if an inmate is transferred to the physical custody of the
21 Commissioner of the Division of Corrections, as defined in section two of this article, at the time he
22 or she leaves the regional jail facility, the administrator or designee shall deliver moneys and

1 earnings then credited to the inmate to the Commissioner of the Division of Corrections for
2 administration in accordance with the provisions of section three-a, article one, chapter twenty-five.
3 In case of the death of the inmate before authorized release from the regional jail facility, the
4 administrator or designee shall deliver the property to the inmate's lawful representative. In case a
5 conservator is appointed for the inmate while he or she is domiciled at the regional jail facility, the
6 administrator shall deliver to the conservator, upon proper demand, all moneys and personal property
7 belonging to the inmate ~~that are~~ in the custody of the administrator.

8 (h) The executive director shall propose rules for legislative approval in accordance with
9 article three, chapter twenty-nine-a of this code to administer and establish the work programs
10 authorized by this section.

11 (i) Notwithstanding any provision of this code to the contrary, the county commission, its
12 members and agents, the Executive Director of the West Virginia Regional Jail and Correctional
13 Facility Authority or designee its members or agents, the sheriff, his or her deputies, correctional
14 officers and agents shall be immune from all liability of any kind except for accident, injury or death
15 resulting directly from gross negligence or malfeasance.

NOTE: The purpose of this bill is to allow the Executive Director of the West Virginia Regional Jail and Correctional Facility Authority to establish a work program for qualified inmates sentenced to a regional jail facility. It includes provisions specifying minimum requirements for the program.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.