

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **Senate Bill 369**

BY SENATORS CLEMENTS AND BOSO

[Introduced January 24, 2018; Referred  
to the Committee on Government Organization]

1 A BILL to repeal §25-1-1, §25-1-1a, §25-1-3, §25-1-3a, §25-1-3b, §25-1-3c, §25-1-4, §25-1-5,  
2 §25-1-5a, §25-1-6, §25-1-7, §25-1-8, §25-1-11, §25-1-11a, §25-1-11b, §25-1-11c, §25-1-  
3 11d, §25-1-11e, §25-1-11f, §25-1-13, §25-1-14, §25-1-15, §25-1-16, §25-1-16a, §25-1-  
4 17, §25-1-18, §25-1-19, §25-1-20, §25-1-21, and §25-1-22 of the Code of West Virginia,  
5 1931, as amended; to repeal §28-5-7, §28-5-8a, §28-5-23, §28-5-24, and §28-5-27 of said  
6 code; to repeal §31-20-1, §31-20-1a, §31-20-2, §31-20-3, §31-20-4, §31-20-5, §31-20-5a,  
7 §31-20-5b, §31-20-5c, §31-20-5d, §31-20-5e, §31-20-5f, §31-20-5g, §31-20-5h, §31-20-  
8 8, §31-20-8a, §31-20-9, §31-20-9a, §31-20-10, §31-20-10a, §31-20-10b, §31-20-11, §31-  
9 20-12, §31-20-13, §31-20-14, §31-20-15, §31-20-20, §31-20-22, §31-20-23, §31-20-24,  
10 §31-20-27, §31-20-27a, §31-20-28, §31-20-29, §31-20-30, §31-20-30a, §31-20-31, and  
11 §31-20-32 of said code; to repeal §62-12-14, §62-12-14a, and §62-12-15 of said code; to  
12 repeal §62-13-3, §62-13-4, §62-13-5, and §62-13-6a of said code; to amend and reenact  
13 §6-7-2a of said code; to amend said code by adding thereto a new chapter, designated  
14 §15A-1-1, §15A-1-2, §15A-1-3, §15A-1-4, §15A-1-5, §15A-2-1, §15A-2-2, §15A-2-3,  
15 §15A-2-4, §15A-2-5, §15A-2-6, §15A-2-7, §15A-2-8, §15A-2-9, §15A-2-10, §15A-2-11,  
16 §15A-2-12, §15A-2-13, §15A-2-14, §15A-2-15, §15A-2-16, §15A-2-17, §15A-2-18, §15A-  
17 2-19, §15A-2-20, §15A-2-21, §15A-2-22, §15A-2-23, §15A-2-24, §15A-2-25, §15A-2-26,  
18 §15A-2-27, §15A-2-28, §15A-2-29, §15A-2-30, §15A-2-31, §15A-2-32, §15A-2-33, §15A-  
19 2-34, §15A-2-35, §15A-2-36, §15A-3-1, §15A-3-2, §15A-3-3, §15A-3-4, §15A-3-5, §15A-  
20 3-6, §15A-3-7, §15A-4-1, §15A-4-2, §15A-4-3, §15A-4-4, §15A-4-5, §15A-4-6, §15A-5-1,  
21 §15A-5-2, §15A-5-3, §15A-5-4, §15A-5-5, §15A-5-6, §15A-5-7, §15A-6-1, §15A-6-2, and  
22 §15A-6-3; and to amend and reenact §19-12A-5 of said code, all relating to the powers  
23 and authority of the newly created Department of Military Affairs and Public Safety,  
24 Divisions of Administrative Services, and Corrections and Rehabilitation; abolishing  
25 certain divisions and authorities; setting forth legislative intent; setting forth the institutions  
26 to be controlled by the Commissioner of Corrections and Rehabilitation; establishing law-

27 enforcement powers; establishing employment criteria; establishing rules for offenders  
 28 and inmates; establishing certain funds and programs; creating the Bureau of Prisons and  
 29 Jails and setting forth its duties and responsibilities; establishing the Bureau of Juvenile  
 30 Services and setting forth its duties and responsibilities; establishing the Bureau of  
 31 Community Corrections and setting forth its duties and responsibilities; creating the  
 32 Regional Jail and Corrections Authority Board and setting forth its duties and  
 33 responsibilities; setting forth compensation; defining terms; and requiring rulemaking.

*Be it enacted by West Virginia Legislature.*

## **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

### **ARTICLE 7. COMPENSATION AND ALLOWANCES.**

#### **§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of officers.**

1 (a) Each of the following appointive state officers named in this subsection shall be  
 2 appointed by the Governor, by and with the advice and consent of the Senate. Each of the  
 3 appointive state officers serves at the will and pleasure of the Governor for the term for which the  
 4 Governor was elected and until the respective state officers' successors have been appointed  
 5 and qualified. Each of the appointive state officers are subject to the existing qualifications for  
 6 holding each respective office and each has and is hereby granted all of the powers and authority  
 7 and shall perform all of the functions and services heretofore vested in and performed by virtue  
 8 of existing law respecting each office.

9 The annual salary of each named appointive state officer is as follows:

10 Commissioner, Division of Highways, \$92,500; Commissioner, ~~Division of Corrections~~  
 11 Division of Corrections and Rehabilitation, \$80,000 \$90,000; Director, Division of Natural  
 12 Resources, \$75,000; Superintendent, State Police, \$85,000; Commissioner, Division of Banking,  
 13 \$75,000; Commissioner, Division of Culture and History, \$65,000; Commissioner, Alcohol

14 Beverage Control Commission, \$75,000; Commissioner, Division of Motor Vehicles, \$75,000;  
15 Director, Human Rights Commission, \$55,000; Commissioner, Division of Labor, \$70,000; prior  
16 to July 1, 2011, Director, Division of Veterans Affairs, \$65,000; Chairperson, Board of Parole,  
17 \$55,000; members, Board of Parole, \$50,000; members, Employment Security Review Board,  
18 \$17,000; and Commissioner, Workforce West Virginia, \$75,000. Secretaries of the departments  
19 shall be paid an annual salary as follows: Health and Human Resources, \$95,000: *Provided*, That  
20 effective July 1, 2013, the Secretary of the Department of Health and Human Resources shall be  
21 paid an annual salary not to exceed \$175,000; Transportation, \$95,000: *Provided, however*, That  
22 if the same person is serving as both the Secretary of Transportation and the Commissioner of  
23 Highways, he or she shall be paid \$120,000; Revenue, \$95,000; Military Affairs and Public Safety,  
24 \$95,000; Administration, \$95,000; Education and the Arts, \$95,000; Commerce, \$95,000;  
25 Veterans' Assistance, \$95,000; and Environmental Protection, \$95,000: *Provided further*, That  
26 any officer specified in this subsection whose salary is increased by more than \$5,000 as a result  
27 of the amendment and reenactment of this section during the 2011 regular session of the  
28 Legislature shall be paid the salary increase in increments of \$5,000 per fiscal year beginning  
29 July 1, 2011, up to the maximum salary provided in this subsection.

30 (b) Each of the state officers named in this subsection shall continue to be appointed in  
31 the manner prescribed in this code and shall be paid an annual salary as follows:

32 Director, Board of Risk and Insurance Management, \$80,000; Director, Division of  
33 Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director,  
34 Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director,  
35 Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute,  
36 \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of  
37 Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital  
38 Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service  
39 Commission, \$85,000; members, Public Service Commission, \$85,000; Director, Division of

40 Forestry, \$75,000; Director, Division of Juvenile Services, \$80,000; Executive Director, Regional  
41 Jail and Correctional Facility Authority, \$80,000 and Executive Director of the Health Care  
42 Authority, \$80,000.

43 (c) Each of the following appointive state officers named in this subsection shall be  
44 appointed by the Governor, by and with the advice and consent of the Senate. Each of the  
45 appointive state officers serves at the will and pleasure of the Governor for the term for which the  
46 Governor was elected and until the respective state officers' successors have been appointed  
47 and qualified. Each of the appointive state officers are subject to the existing qualifications for  
48 holding each respective office and each has and is hereby granted all of the powers and authority  
49 and shall perform all of the functions and services heretofore vested in and performed by virtue  
50 of existing law respecting each office.

51 The annual salary of each named appointive state officer shall be as follows:

52 Commissioner, State Tax Division, \$92,500; Insurance Commissioner, \$92,500; Director,  
53 Lottery Commission, \$92,500; Director, Division of Homeland Security and Emergency  
54 Management, \$65,000; and Adjutant General, \$125,000.

55 (d) No increase in the salary of any appointive state officer pursuant to this section may  
56 be paid until and unless the appointive state officer has first filed with the State Auditor and the  
57 Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General,  
58 certifying that his or her spending unit is in compliance with any general law providing for a salary  
59 increase for his or her employees. The Attorney General shall prepare and distribute the form to  
60 the affected spending units.

**CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC**  
**SAFETY, THE DIVISION OF ADMINISTRATIVE SERVICES, AND THE**  
**DIVISION OF CORRECTIONS AND REHABILITATION.**

**ARTICLE 1. DIVISION OF ADMINISTRATIVE SERVICES.**

**§15A-1-1. Findings and purposes.**

1        The Legislature finds and declares that the elimination of redundant purposes or functions  
2 within an agency improves government efficiency, effectiveness, and accountability. Therefore,  
3 it is the purpose of this article to create, as an integral part of the Department of Military Affairs  
4 and Public Safety, the Division of Administrative Services with the authority to employ all  
5 personnel necessary to carry out the administrative services and functions of the Division of  
6 Corrections, Division of Juvenile Services, and Regional Jail and Correctional Facility Authority  
7 as set forth herein and notwithstanding any provision of this code to the contrary.

**§15A-1-2. Definitions.**

1        As used in this article:

2        “Corrections agencies” means the Division of Corrections, Division of Juvenile Services,  
3 and the Regional Jail and Correctional Facility Authority.

4        “Director” means the Director of the Division of Administrative Services.

5        “Administrative services” means the fiscal services, payroll services, human resources  
6 services, and procurement services of the corrections agencies.

7        “Secretary” means the Secretary of the Department of Military Affairs and Public Safety.

**§15A-1-3. Division of Administrative Services; director; appointment and qualifications.**

1        The Division of Administrative Services is created within the Department of Military Affairs  
2 and Public Safety. A director shall be appointed by and shall serve at the will and pleasure of the  
3 secretary. The director shall have extensive knowledge in the field of public safety and the  
4 principles and practices of administration, and experience in the civil service system.

**§15A-1-4. Powers and duties of the director generally.**

1        The director shall have control and supervision of the Division of Administrative Services  
2 and shall be responsible for the work of each of its employees. The director shall have the  
3 authority to employ all personnel necessary to perform administrative services for the corrections  
4 agencies. The director shall also have the authority to employ assistants and attorneys as may

5 be necessary for the efficient operation of the Division of Administrative Services. The director  
6 shall perform the duties herein specified and shall also perform other duties as the secretary may  
7 prescribe.

**§15A-1-5. Transfer of employees; funding; continuation of programs; transfer of  
equipment and records; protection.**

1 (a) Persons employed on the effective date of this article by the corrections agencies, the  
2 duties and functions of which have been transferred to the Division of Administrative Services,  
3 are hereby assigned and transferred to the Division of Administrative Services. It is the intent of  
4 this article to consolidate into the Division of Administrative Services those employees performing  
5 administrative services which will be facilitated by their consolidation. On the effective date of this  
6 article, all employees occupying administrative services positions for the corrections agencies  
7 shall be transferred to the Division of Administrative Services.

8 (b) Upon the transfer, if any, of any administrative services positions as provided in  
9 subsection (a) of this section from corrections agencies operating from special revenue funds or  
10 federal funds, such corrections agency shall pay to the Division of Administrative Services the  
11 costs of personnel services, as determined by the secretary, provided to their respective  
12 corrections agency. Upon the transfer of any administrative services positions to the Division of  
13 Administrative Services from corrections agencies funded from general revenues of the state, the  
14 Governor is authorized and empowered to order the transfer of funds for those positions.

15 (c) The consolidation of the administrative services of the corrections agencies and the  
16 creation of the Division of Administrative Services shall in no way hinder any ongoing programs,  
17 benefits, litigation, or grievance procedures. Employees in the classified service who have gained  
18 permanent status as of the effective date of this article will not be subject to further qualifying  
19 examination by reason of any transfer required by the provisions of this section, except when they  
20 wish to qualify for promotion. Nothing contained in this section shall be construed to abridge the  
21 rights of employees within the classified service of the state to the procedures and protections set

22 forth in §29-6-10 and W.Va. Code §29-6-10 of this code.

23 (d) On the effective date of this article, all equipment and records necessary to effectuate  
24 the purposes of this article shall be transferred to the Division of Administrative Services.

25 (e) Nothing contained in this article shall be construed to preclude the reclassification or  
26 reallocation of positions in accordance with procedures set forth in §29-6-10 of this code.

27 (f) Any person employed by the office of the Director of Administrative Services who on  
28 the effective date of this article is a classified civil service employee shall, within the limits  
29 contained in §29-6-2 of this code, remain in the civil service system as a covered employee.  
30 Further, any person, other than the Director, and his or her Deputy Directors, and one exempt  
31 assistant, shall, within the limits contained in §29-6-1 et seq. of this code, are hereby transferred  
32 into the civil service system as covered employees, and are no longer exempt.

**ARTICLE 2. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT**  
**OF THE DIVISION OF CORRECTIONS AND REHABILITATION.**

**§15A-2-1. Office of Commissioner of Division of Corrections abolished; Office of Executive**  
**Director of the Regional Jail and Correctional Facility Authority abolished; Office of**  
**Director of Juvenile Services abolished; Division of Corrections and Division of**  
**Juvenile Services abolished and duties and authorities transferred; Regional Jail**  
**and Correctional Facility Authority operational duties and authorities transferred;**  
**Regional Jail and Correctional Facility Authority board duties redefined; and**  
**Division of Corrections and Rehabilitation and Commissioner of Corrections and**  
**Rehabilitation established; qualifications, oath and bond.**

1 The offices of Commissioner of Division of Corrections, Executive Director of the Regional  
2 Jail and Correctional Facility Authority, and the Director of Juvenile Services are hereby  
3 abolished, except as otherwise provided in this chapter, the powers and authority of these offices  
4 are transferred to the Division of Corrections and Rehabilitation which is hereby established.



5 Whenever in this code reference is made to the Commissioner of the Division of Corrections, the  
6 Executive Director of the Regional Jail and Correctional Facility Authority, or the Director of the  
7 Division of Juvenile Services, it shall be construed to mean the Division of Corrections and  
8 Rehabilitation services. Further, the powers and duties of the Division of Corrections, the Division  
9 of Juvenile Services, are hereby abolished and the powers and authority of these Divisions are  
10 transferred to the Division of Corrections and Rehabilitation. Whenever in this code a reference  
11 is made to the Division of Corrections or the Division of Juvenile Services, it shall be construed to  
12 mean the Division of Corrections and Rehabilitation. The powers and authority of the Regional  
13 Jail and Correctional Facility Authority, in relation to all functions of correctional operations, are  
14 hereby abolished, and these powers and authority are transferred to the Division of Corrections  
15 and Rehabilitation. The Regional Jail and Correctional Facility Authority shall only retain the  
16 powers as now outlined in §15A-6-1 et seq. of this code. Whenever in this code reference is made  
17 to the Regional Jail and Correctional Facility Authority, in relation to operations of any of the  
18 regional jails, it shall be construed to mean the Division of Corrections and Rehabilitation. Further,  
19 all Legislative Rules and Policies promulgated by, or previously transferred to, the Division of  
20 Corrections, the Regional Jail and Correctional Facility Authority, and the Division of Juvenile  
21 Services, are hereby transferred to the Division of Corrections and Rehabilitation.

22 The executive and administrative head of the Division of Corrections and Rehabilitation  
23 services shall be a commissioner who shall be appointed, dismissed, and paid in accordance with  
24 the provisions of §6-7-2a of this code.

25 The commissioner shall take and subscribe to the oath prescribed by the Constitution for  
26 public officials and shall execute an official bond in a penalty of \$15,000, conditioned as required  
27 by law. Premiums on the bond shall be paid from appropriations made for the commissioner's  
28 office. The bond shall be approved as to form by the Attorney General and as to sufficiency by  
29 the Governor and, when fully executed and approved, shall be filed in the office of the Secretary  
30 of State.

31 Nothing herein contained shall be construed so as to give the Commissioner of  
32 Corrections and Rehabilitation any authority in the administration, management, or control of  
33 mental institutions, previously transferred to the Department of Mental Health by an act of the  
34 Legislature, regular session, 1957.

35 Any person employed by the office of the Commissioner of the Division of Corrections and  
36 Rehabilitation who on the effective date of this article is a classified civil service employee shall,  
37 within the limits contained in §29-6-2 of this code, remain in the civil service system as a covered  
38 employee.

**§15A-2-2. Purpose and legislative intent.**

1 (a) The primary purpose of the Division of Corrections and Rehabilitation is to enhance  
2 public safety by providing for the detention of juvenile offenders, both pretrial and adjudicated,  
3 pretrial detention of adult persons facing criminal charges, and incarceration and care of adult  
4 convicted offenders who have been sentenced by courts of proper jurisdiction to serve terms of  
5 incarceration. It is the intent of the Legislature:

6 (1) That juveniles and adult offenders be afforded appropriate education, and treatment to  
7 reestablish their ability to live peaceably, consistent with the protection of the community;

8 (2) That persons held in pretrial detention, and committed to jails and correctional  
9 institutions of the state for whom release is available for crimes be afforded appropriate treatment  
10 to reestablish their ability to live peaceably, consistent with the protection of the community;

11 (3) That persons committed to jails and correctional institutions of the state be released at  
12 the earliest possible date, consistent with public safety;

13 (4) To establish a just, humane, and efficient corrections program; and

14 (5) To avoid duplication and waste of effort and money on the part of public and private  
15 agencies.

16 (b) This section shall be construed in favor of public safety.

**§15A-2-3. Institutions managed by Commissioner of Corrections and Rehabilitation;**

**establishment of work and study release units; contracting with certain entities for re-entry and direct placement services; reports to Governor.**

1        (a) The Commissioner of Corrections and Rehabilitation shall manage, direct, control, and  
2 govern the jails, penal, or correctional institutions of this state, and the juvenile facilities of this  
3 state, including, but not limited to:

4        Mount Olive Correctional Complex and Jail;

5        Huttonsville Correctional Center and Jail;

6        Anthony Correctional Center and Jail;

7        Denmar Correctional Center and Jail;

8        Pruntytown Correctional Center and Jail;

9        Northern Regional Jail and Correctional Center;

10       St. Marys Correctional Center and Jail;

11       Lakin Correctional Center and Jail;

12       Ohio County Correctional Center and Jail;

13       Beckley Correctional Center and Jail;

14       Martinsburg Correctional Center and Jail;

15       Salem Correctional Center and Jail;

16       Parkersburg Correctional Center and Jail;

17       Charleston Correctional Center and Jail;

18       Central Regional Jail and Corrections Facility;

19       Eastern Regional Jail and Corrections Facility;

20       North Central Regional Jail and Corrections Facility;

21       Potomac Highlands Regional Jail and Corrections Facility;

22       South Central Regional Jail and Corrections Facility;

23       Southern Regional Jail and Corrections Facility;

24       Southwestern Regional Jail and Corrections Facility;

25 Tygart Valley Regional Jail and Corrections Facility;  
26 Western Regional Jail and Corrections Facility;  
27 Donald R. Kuhn Center;  
28 Gene Spadaro Center;  
29 JM Chick Buckbee Center;  
30 Kenneth Honey Rubenstein Center;  
31 Lorrie Yeager Center;  
32 Robert L. Shell Center;  
33 Sam Perdue Center;  
34 Tiger Morton Center;  
35 Vicki Douglas Center; and  
36 Any other juvenile or adult facility later transferred to the Commissioner of the Division of  
37 Corrections and Rehabilitation.

38 (b) The commissioner shall, no later than July 1, 2019, complete an evaluation of all  
39 facilities within his or her control for the most appropriate space to house each type of inmate.  
40 This evaluation shall include an assessment of the physical plant of each institution, the inmate  
41 population size and type, and classification of inmates. Following completion of the evaluation,  
42 the commissioner shall develop a plan on how to best utilize the institutional space. The  
43 commissioner may, from time to time, and as circumstances dictate, reorganize the facilities, and  
44 units within the facilities, to house pretrial inmates, convicted misdemeanants, and convicted  
45 felons, and in separate facilities, juvenile detainees and offenders, in the most appropriate  
46 manner. The commissioner has the sole authority and discretion to determine the best housing  
47 placement, consistent with the provisions of this chapter, for inmates within his or her custody.  
48 Nothing in this section shall prohibit the commissioner from moving inmates between facilities for  
49 any reason.

50 (c) The Commissioner of Corrections and Rehabilitation may contract with the county

51 commission of McDowell County to house and incarcerate inmates at the Stevens Correctional  
52 Center consistent with all requirements and standards governing the division.

53 (d) The Commissioner of Corrections and Rehabilitation may contract with Youth Services  
54 System to house and detain juveniles at the Ronald Mulholland Center consistent with all the  
55 requirements of and standards governing the Division.

56 (e) The Commissioner of Corrections and Rehabilitation may establish work and study  
57 release units as extensions and subsidiaries of those state institutions under his or her control  
58 and authority. The work and study release units may be coeducational and shall be managed,  
59 directed, and controlled as provided in this article.

60 (f)(1) The commissioner may contract with nonprofit or charitable entities including, but  
61 not limited to, nonprofit community mental health clinics, operating half-way houses or transitional  
62 housing facilities for the placement of persons in the commissioner's custody, whether confined  
63 or under parole supervision, as long as the facilities meet standards and criteria established by  
64 the commissioner.

65 (2)(A) The Commissioner of Corrections and Rehabilitation may direct that a person who  
66 is placed in a half-way house or transitional housing facility under this section make  
67 reimbursement to the state in the amount of a reasonable sum calculated to offset all or part of  
68 the costs of the placement.

69 (B) Prior to ordering the person to make the reimbursement, the commissioner, or his or  
70 her designee, shall consider the following:

71 (i) The person's ability to pay;

72 (ii) The nature and extent of the person's responsibilities to his or her dependents, if any;

73 (iii) The length of probable incarceration under the court's sentence; and

74 (iv) The effect, if any, that reimbursement might have on the person's rehabilitation.

75 (g) The Division of Corrections and Rehabilitation shall provide the number of persons  
76 placed in a half-way house or a transitional housing facility pursuant to subsection (e) of this

77 section in its report made pursuant to §5-1-20 of this code, and shall describe its plans to use the  
78 authority provided under the provisions of subsection (e) of this section in furtherance of the duties  
79 and responsibilities imposed by this article.

80 (h) All adult persons sentenced by a court to serve a sentence of incarceration in a  
81 penitentiary, prison, a jail, or a correctional institution under the jurisdiction of the Commissioner  
82 of the Division of Corrections and Rehabilitation, shall be deemed to be sentenced to the custody  
83 of the Commissioner of the Division of Corrections and Rehabilitation. The commissioner, or his  
84 or her designee, has the authority to and may order the transfer of any adult to any appropriate  
85 institution within the Division of Corrections and Rehabilitation or within the Department of Military  
86 Affairs and Public Safety. The commissioner has full discretionary authority to contract with any  
87 county jail, or other appropriate facility or institution for the incarceration and care of adult inmates.  
88 If a felony sentenced inmate is held in a jail facility or unit, under the jurisdiction of the  
89 commissioner, the commissioner shall pay a per diem rate, not subject to the limitations set forth  
90 in §15A-2-34(h) of this code.

91 The commissioner, or his or her designee, may transfer any adult prisoner or inmate who  
92 is mentally disturbed and who would more appropriately be treated in an institution under the  
93 jurisdiction of the Division of Health, to the Division, subject to the approval of the Director of  
94 Health; and may transfer any adult prisoner or inmate to an appropriate mental facility for  
95 specialized medical treatment.

96 (i) All juveniles placed in a facility under the jurisdiction of the Commissioner of the Division  
97 of Corrections and Rehabilitation, shall be deemed to be placed in the custody of the  
98 Commissioner of the Division of Corrections and Rehabilitation. The commissioner, or his or her  
99 designee, has the authority to and may order the transfer of any adult to any appropriate institution  
100 within the Division of Corrections and Rehabilitation or within the Department of Military Affairs  
101 and Public Safety.

**§15A-2-4. Law-enforcement power; public carriage for state officials; right to carry**

**weapons; powers of correctional peace officers.**

1       (a) The Commissioner of the Division of Corrections and Rehabilitation is a law-  
2 enforcement official, and has the authority to use, and permit and allow or disallow their  
3 designated employees to use, publicly provided carriage to travel from their residences to their  
4 workplace and return: *Provided*, That the usage is subject to the supervision of the official and is  
5 directly connected with and required by the nature and in the performance of the official's or  
6 designated employee's duties and responsibilities.

7       (b) The Corrections Special Operations Team, consisting of the Corrections Emergency  
8 Response Team, the K9 unit, and the Crisis Negotiations team, are first responders which are  
9 necessary for the protection of life, liberty, and property. They shall have limited law-enforcement  
10 authority regarding matters occurring at jails, correctional centers, and juvenile centers, and  
11 tangentially, arrest powers to apprehend escapees, absconders, and in all matters arising on the  
12 grounds of a facility under the care and control of the Commissioner of the Division of Corrections  
13 and Rehabilitation.

14       (c) The commissioner may issue a certificate authorizing any correctional employee who  
15 has successfully completed the division's training program for firearms certification, which shall  
16 be the equivalent of that required of deputy sheriffs, to carry firearms and concealed weapons  
17 while on duty. Any correctional employee authorized by the commissioner has the right, without  
18 a state license, to carry firearms and concealed weapons while on duty. Each correctional  
19 employee, authorized by the commissioner, shall carry with him or her a certificate authorizing  
20 him or her to carry a firearm or concealed weapon when performing his or her official duties as a  
21 correctional employee, bearing the official signature of the commissioner and superintendent. The  
22 right is extended to a correctional employee during the time the employee travels from place to  
23 place within the state for the purpose of removing prisoners from jails to a correctional institution  
24 of the Division of Corrections, during the time the employee is pursuing and apprehending  
25 escaped inmates and during any other time the employee is performing official duties as a

26 correctional employee.

27 (d) All employees of the Division of Corrections and Rehabilitation are responsible for  
28 enforcing rules and laws necessary for the control and management of correctional units and the  
29 maintenance of public safety that is within the scope of responsibilities of the Division of  
30 Corrections and Rehabilitation.

31 (e) The Commissioner of Corrections and Rehabilitation may designate correctional  
32 employees as correctional peace officers who have the authority:

33 (1) To detain persons for violations of state law committed on the property of any state  
34 correctional institution;

35 (2) To conduct investigations regarding criminal activity occurring within a correctional  
36 facility;

37 (3) To execute criminal process or other process in furtherance of these duties; and

38 (4) To apply for, obtain, and execute search warrants necessary for the completion of his  
39 or her duties and responsibilities.

40 (f) Persons employed by the Division of Corrections and Rehabilitation as correctional  
41 officers are hereby authorized and empowered to make arrests of persons already charged with  
42 a violation of law who surrender themselves to the correctional officer, to arrest persons already  
43 in the custody of the division for violations of law occurring in the officer's presence, to detain  
44 persons for violations of state law committed on the property of any facility under the jurisdiction  
45 of the commissioner, and to conduct investigations, pursue, and apprehend escapees from the  
46 custody of a facility of the division.

47 (g) Other than as outlined in this section, a correctional officer employed by the division is  
48 not a law-enforcement officer as that term is defined in §30-29-1 of this code.

**§15A-2-5. Rules.**

1 The Commissioner of Corrections and Rehabilitation is authorized to make rules or  
2 policies for the proper execution of his or her duties and powers; adopt rules or policies for the



3 government of the institutions named or referred to in §15A-2-3 of this code; adopt rules or policies  
4 for the administration of the financial and business affairs of the institutions named or referred to  
5 in that section, and establish policies regarding the treatment of mentally ill inmates, which reflect  
6 the safety and security concerns specific to jails and correctional facilities. Notwithstanding any  
7 provisions of law to the contrary, the Division of Corrections and Rehabilitation is not subject to  
8 the rules promulgated by the board of health for the treatment of mentally ill patients nor the  
9 mandates developed pursuant to *E. H. v. Matin*.

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

19 Any person violating the provisions of this article is guilty of a misdemeanor and, upon  
20 conviction, shall be punished by a fine of not more than \$10, or by imprisonment for 10 days, or  
21 both.

**§15A-2-6. Powers and duties of Commissioner generally.**

1 The commissioner, in order to carry out the purposes and intent of this chapter, may  
2 exercise all powers necessary or appropriate to carry out the purposes of this article, including,  
3 but not limited to, the following:

4 (1) The commissioner shall:

5 (A) Exercise general supervision over the administration of the institutions under the  
6 jurisdiction of the division;

7           (B) Establish separate subdivisions, including a Bureau of Prisons and Jails, a Bureau of  
8 Juvenile Rehabilitation, and a Bureau of Community Corrections, to be headed by assistant  
9 commissioners, and other subdivisions as he or she deems advisable, which may be headed by  
10 one of the assistant commissioners, or by deputy directors. Nothing herein shall prohibit the  
11 commissioner from appointing the same person to head more than one subdivision;

12           (C) Establish rules, policies, and regulations in writing governing all subdivisions and  
13 institutions within the division;

14           (D) Establish an in-service training program for personnel of the division;

15           (E) Classify the institutions of the division, varying according to the factors as security  
16 features, program, age, and sex of inmates, physical stature or size, character of inmates;

17           (F) Establish a system of classification of inmates and residents, through a reception and  
18 examination procedure;

19           (G) Cooperate with the Department of Education in providing for the education of inmates  
20 in all institutions within the department, subject to §18-2-13f of this code;

21           (H) Supervise the treatment, custody, and discipline of all inmates and residents and the  
22 maintenance of the institutions and their industries;

23           (I) Establish a system of compensation for inmates and residents of the institutions of the  
24 state who perform good and satisfactory work either within the industrial program or in the  
25 servicing and maintenance of the institutions or any other institutions or camps within the state.  
26 The commissioner, or his or her designee, may establish a graduated scale of compensation to  
27 be paid to inmates and residents in accordance with their skill in industry.

28           (J) Subject to the provisions in §25-1A-5 of this code the commissioner shall provide for  
29 the transportation of inmates between the jails and local holding facilities for court appearances.

30           (2) The commissioner may:

31           (A) Appoint a Deputy Commissioner to assist in the day to day operations of the division;

32           (B) Employ professional and support staff, including, but not limited to, certified public

33 accountants, attorneys, assistants, and other employees as necessary for the efficient operation  
34 of the division;

35 (C) Acquire, own, hold, and dispose of property, real and personal, tangible and intangible;

36 (D) Lease property, whether as a lessee or lessor;

37 (E) Conduct examinations and investigations and to hear testimony and take proof, under  
38 oath or affirmation;

39 (F) Issue subpoenas requiring the attendance of witnesses and the production of books  
40 and papers relevant to any hearing before the commissioner, or his or her designee to conduct  
41 any hearing;

42 (G) Apply to the circuit court having venue of the offense to have punished for contempt  
43 any witness who refuses to obey a subpoena, refuses to be sworn or affirmed, or refuses to testify,  
44 or who commits any contempt after being summoned to appear;

45 (H) Sue and be sued, implead and be impleaded, and complain and defend in any court;

46 (I) Make rules for the management and regulation of its affairs pursuant to §29A-3-1 et  
47 seq. of this code;

48 (J) Make policies for the management and regulation of its affairs;

49 (K) Make contracts of every kind and nature and to execute all instruments necessary or  
50 convenient for carrying on its business, including contracts with any other governmental agency  
51 of this state or of the federal government or with any person, individual, partnership or corporation  
52 to affect any or all of the purposes of this chapter; and

53 (L) Accept gifts or grants of property, funds, security interests, money, materials, labor,  
54 supplies or services from the United States of America or from any governmental unit or any  
55 person, firm or corporation, acceptance or disposition of gifts or grants.

**§15A-2-7 Compensation of employees approved by Commissioner; traveling and other  
expenses; payment of salaries.**

1 The Commissioner of Corrections and Rehabilitation shall approve the salaries of all

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

**§15A-2-8. Unauthorized use of uniform, badge, identification card, or other insignia;**  
**impersonation of member; and penalty.**

1 (a) No person who is not an officer or employee of the Division of Corrections and  
2 Rehabilitation, and no officer or employee of the division who is not authorized to do so, may, with  
3 intent to deceive, wear, use, order to be used or worn, copy, or imitate in any respect or manner  
4 the uniform, badge, identification card, or other insignia prescribed for employees of the division.

5 (b) No person who is not an officer or employee of the Division of Corrections and  
6 Rehabilitation may falsely represent himself or herself to be an officer or employee of the Division  
7 of Corrections and Rehabilitation or to be under the order or direction of any officer or employee  
8 of the division.

9 (c) Any person who violates the provisions of subsection (a) or (b) of this section is guilty  
10 of a misdemeanor and, upon conviction thereof, shall be fined not more than \$200, or confined in  
11 the county or regional jail for not more than six months, or both fined and confined.

**§15A-2-9. Hiring of correctional officer without regard to position on the register.**

1        Notwithstanding any provision of law to the contrary or any rule promulgated under the  
2 provisions of this code, the Division of Corrections and Rehabilitation may hire any person listed  
3 on the Correctional Officer I Register for employment as a Correctional Officer I without regard to  
4 the person's position on the register: *Provided*, That no person on the Correctional Officer I  
5 Register may be offered employment or hired before an otherwise qualified person on a  
6 preference register who is willing to accept the position.

**§15A-2-10. Furlough programs.**

1        (a) The commissioner is hereby authorized to establish a furlough program for inmates  
2 committed to his or her custody for a felony offense. The program may provide that selected  
3 inmates be permitted to reside outside an institution operated by the Division of Corrections and  
4 Rehabilitation under legislative rules, pursuant to chapter 29A of this code, or policy directives,  
5 promulgated by the commissioner.

6        (b) The commissioner, or his or her designee, is authorized to establish under legislative  
7 rules, pursuant to chapter 29A of this code, or policy directives, promulgated by the commissioner,  
8 a furlough program for pretrial and misdemeanor inmates under his or her control and custody  
9 in accordance with the following provisions:

10        (1) The program may include, but is not limited to, granting furloughs or special escorts  
11 for specified inmates under the commissioner's control and custody to attend funerals or make  
12 hospital visits to terminally ill family members.

13        (2) The commissioner shall establish criteria to be used in determining which inmates are  
14 not likely to jeopardize public safety and should be granted a furlough or a special escort through  
15 this program.

16        (3) The commissioner is authorized to establish any other guidelines he or she considers  
17 necessary to administer the program and to ensure public safety, including, but not limited to:

18        (A) Guidelines relating to eligibility for consideration, restrictions, conditions, and

19 procedures; and

20 (B) The family relationship an inmate must have with the deceased or terminally ill  
21 individual in order to qualify for consideration for a furlough.

22 (c)(1) The Division of Corrections and Rehabilitation, Commissioner, and employees of  
23 the Authority are immune from suit and liability, either personally or in their official capacity, for  
24 any claim for damage to or loss of property or personal injury or other civil liability caused or  
25 arising out of any actual or alleged act of an inmate while on a furlough granted under this section.

26 (2) The immunity from suit and liability provided in this subsection does not extend to  
27 liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton  
28 misconduct of any person identified in subdivision (1) of this subsection.

**§15A-2-11. Electronic monitoring of offenders; special account.**

1 The commissioner may use electronic monitoring equipment to aid in the supervision of  
2 offenders. The commissioner shall charge offenders subject to supervision by means of electronic  
3 monitoring equipment a reasonable fee, to be established under a Policy Directive, to help defray  
4 the costs of the purchase and use of the equipment and the division of correction's operational  
5 costs: *Provided*, That an offender's inability to pay a fee does not preclude the offender from being  
6 eligible for this program.

7 All fees collected shall be deposited in a special account in the State Treasury designated  
8 the "electronic monitoring program account." The funds deposited in the account may be used by  
9 the commissioner only for the operation of the program and for the administration of the Division  
10 of Corrections and Rehabilitation.

11 "Electronic monitoring equipment" means an electronic device or apparatus approved by  
12 the Division of Corrections and Rehabilitation which is capable of recording or transmitting  
13 information regarding the offender's presence or nonpresence in a designated area. The device  
14 shall be minimally intrusive. Except to the extent provided in this section, the Division of  
15 Corrections and Rehabilitation shall not approve any monitoring device which is capable of

16 recording or transmitting (i) visual images, except for that of a still image of the offender that can  
17 only be transmitted by the offender triggering the monitoring system, or (ii) information as to the  
18 offender's activities while he or she is within the designated area. A monitoring device may  
19 transmit information regarding blood alcohol levels. The monitoring device shall not be used to  
20 eavesdrop or record any conversation: *Provided*, That conversations between the offender and  
21 the person supervising the offender may be recorded solely for purpose of voice identification.

**§15A-2-12. Diagnostic and classification divisions.**

1 (a) The Commissioner of Corrections and Rehabilitation may continue and establish  
2 diagnostic and classification subdivisions.

3 (b) Notwithstanding any provision of this code to the contrary, all persons committed to  
4 the custody of the Division of Corrections and Rehabilitation for presentence diagnosis and  
5 classification and all persons sentenced to the custody of the Division of Corrections and  
6 Rehabilitation shall, upon transfer to the Division of Corrections and Rehabilitation, undergo  
7 diagnosis and classification, which shall include: (1) Assessments of a person's criminogenic risk  
8 and need factors that are reliable, validated, and normed for a specific population and responsive  
9 to cultural and gender-specific needs as well as individual learning styles and temperament; (2)  
10 application of a mental health preliminary screen; and (3) if the mental health preliminary screen  
11 suggests the need for further assessment, a full psychological evaluation. The Division of  
12 Corrections and Rehabilitation shall perform mental health preliminary screens, appraisals, and  
13 evaluations according to standards provided by the American Correctional Association.

**§15A-2-13. Transfer of inmates of state institutions or facilities.**

1 The Commissioner of Corrections and Rehabilitation shall have authority to cause the  
2 transfer of any inmate from any facility under his or her control to any other state or federal  
3 institution or facility which is better equipped for the care or treatment of the inmate, or for other  
4 good cause or reason.

5 Whenever an inmate committed to the custody of the division becomes mentally ill and his

6 or her needs cannot be properly met within the correctional facility, the commissioner shall  
7 proceed in accordance with §28-5-31 of this code.

8 Whenever an inmate committed to the custody of the Division of Corrections and  
9 Rehabilitation needs medical attention, other than mental health care, not available at the prison,  
10 the superintendent of the correctional facility shall immediately notify the Commissioner of  
11 Corrections and Rehabilitation who, after proper investigation, shall cause the transfer of the  
12 inmate to a facility properly equipped to render the medical attention necessary. The inmate, while  
13 receiving treatment in the hospital, shall be under an appropriate level of supervision at all times  
14 and shall forthwith be returned to his or her correctional facility upon release from the facility.

15 In providing or arranging for the necessary medical and other care and treatment of a  
16 pregnant inmate, the superintendent of the facility shall take reasonable measures to assure that  
17 pregnant inmates will not be restrained after reaching the second trimester of pregnancy until the  
18 end of the pregnancy: *Provided*, That if the inmate, based upon her classification, discipline  
19 history, or other factors deemed relevant by the superintendent poses a threat of escape, or to  
20 the safety of herself, the public, staff, or the fetus, the inmate may be restrained in a manner  
21 reasonably necessary: *Provided, however*, That prior to directing the application of restraints and  
22 where there is no threat to the safety of the inmate, the public, staff, or the fetus, the  
23 superintendent, or designee shall consult with an appropriate health care professional to assure  
24 that the manner of restraint will not pose an unreasonable risk of harm to the inmate or the fetus.

**§15A-2-14. Monitoring of inmate telephone calls; procedures and restrictions; calls to or**  
**from attorneys excepted.**

1 (a) The Commissioner of Corrections and Rehabilitation, or his or her designee, is  
2 authorized to monitor, intercept, record, and disclose telephone calls to or from adult inmates of  
3 state institutions under his or her control, in accordance with the following provisions:

4 (1) All adult inmates of state institutions shall be notified in writing that their telephone  
5 conversations may be monitored, intercepted, recorded, and disclosed;



6           (2) Only the Commissioner, Superintendent, or their designee shall have access to  
7 recordings of inmates' telephone calls unless disclosed pursuant to subdivision (4) of this  
8 subsection;

9           (3) Notice shall be prominently placed on, or immediately near, every telephone that may  
10 be monitored;

11           (4) The contents of inmates' telephone calls may be disclosed to an appropriate law-  
12 enforcement agency, or the West Virginia Intelligence Fusion Center, when disclosure is  
13 necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly  
14 operation of the correctional institution. Disclosure may be made in civil or administrative  
15 proceedings pursuant to an order of a court or an administrative tribunal when the disclosure is:

16           (A) Necessary to safeguard and protect the orderly operation of the correctional institution;  
17 or

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

19           (5) All recordings of telephone calls shall be retained for at least three years and  
20 maintained and destroyed in accordance with the record retention policy of the Division of  
21 Corrections and Rehabilitation adopted pursuant to §5A-8-1 et seq. of this code; or

22           (6) To safeguard the sanctity of the attorney-client privilege, a telephone line that is not  
23 monitored shall be made available for telephone calls to or from an attorney. These calls shall not  
24 be monitored, intercepted, recorded, or disclosed in any matter.

25           (b) The commissioner shall promulgate a policy directive establishing a record-keeping  
26 procedure which requires retention of: (1) A copy of the contents of any inmate telephone  
27 conversation provided to law enforcement; and (2) the name of the law-enforcement officer and  
28 the law-enforcement agency to which the contents of the telephone conversation were provided.

29 The records required to be retained pursuant to this subsection shall be retained in accordance  
30 with the record retention policy specified in §29B-1-4(a)(4) of this code. The inmate's telephone  
31 conversation and the information regarding law enforcement are law-enforcement records under

32 that subdivision.

33 (c) Should an inmate be charged with a crime based, in whole or in part, on the inmate's  
34 telephone conversation supplied to law enforcement, the inmate's attorney in the criminal matter  
35 shall be entitled to access to and copies of the inmate's telephone conversations in the custody  
36 of the commissioner which are not evidence in or the subject of another criminal investigation.

37 (d) The provisions of this section apply only to those in the physical custody of the  
38 Commissioner of Corrections and Rehabilitation.

**§15A-2-15. Monitoring inmate mail; procedures and restrictions; identifying mail from a  
state institution; mail to or from attorneys excepted.**

1 (a) The Commissioner of Corrections and Rehabilitation, or his or her designee, is  
2 authorized to monitor, open, review, copy, and disclose mail sent to adult inmates of state  
3 institutions under his or her control, in accordance with the following provisions:

4 (1) All adult inmates of state institutions shall be notified in writing that their mail may be  
5 monitored, opened, reviewed, copied, and disclosed;

6 (2) Only the commissioner and his or her designee shall have access to copies of inmates'  
7 mail unless disclosed pursuant to subdivision (4) of this subsection;

8 (3) Notice that the mail may be monitored shall be prominently placed on or immediately  
9 near every mail receptacle or other designated area for the collection or delivery of mail;

10 (4) The contents of inmates' mail may be disclosed to an appropriate law-enforcement  
11 agency, or the West Virginia Intelligence Fusion Center, when disclosure is necessary for the  
12 investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the  
13 institution. Disclosure may be made in civil or administrative proceedings pursuant to an order of  
14 a court or administrative tribunal when the disclosure is:

15 (A) Necessary to safeguard and protect the orderly operation of the institution; or

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

17 (5) All copies of mail shall be retained for at least three years and maintained and

18 destroyed in accordance with the records retention policy of the Division of Corrections and  
19 Rehabilitation adopted pursuant to §5A-8-1 et seq. of this code; or

20 (6) The inmate whose mail has been copied and disclosed under this section shall be  
21 given a copy of that mail when it is determined by the commissioner, or superintendent, not to  
22 jeopardize the safe and secure operation of the facility or to be detrimental to an ongoing  
23 investigation or administrative action.

24 (b) To safeguard the sanctity of the attorney-client privilege, mail to or from an inmate's  
25 attorney shall not be monitored, reviewed, copied, and kept by the institution, or disclosed in any  
26 manner unless required by an order of a court of competent jurisdiction. However, that mail may  
27 be checked for weapons, drugs, and other contraband provided it is done in the presence of the  
28 inmate and there is a reasonable basis to believe that any weapon, drug, or other contraband  
29 exists in the mail.

30 (c) All inmates' outgoing mail must be clearly identified as being sent from an inmate at a  
31 state correctional institution and must include on the face of the envelope the name and full  
32 address of the institution.

33 (d) The Commissioner of Corrections and Rehabilitation or his or her designee is  
34 authorized to open, monitor, review, copy, and disclose an inmate's outgoing mail in accordance  
35 with the provisions of subsection (a) of this section.

36 (e) The Commissioner shall promulgate a policy directive establishing a record-keeping  
37 procedure which requires retention of: (1) All inmate mail provided to law enforcement; and (2)  
38 the name of the law-enforcement officer and the law-enforcement agency to which the inmate  
39 mail was provided. The records required to be retained pursuant to this subsection shall be  
40 retained in accordance with the record retention policy specified in subdivision (5), subsection (a)  
41 of this section. The inmate mail and the information regarding law enforcement are law-  
42 enforcement records under §29B-1-4(a)(4) of this code.

43 (f) Should an inmate be charged with a criminal offense based, in whole or in part, on the

44 inmate's mail supplied to law enforcement, the inmate's attorney in the criminal matter shall be  
45 entitled to access to and copies of the inmate's mail in the custody of the commissioner which are  
46 not evidence in or the subject of another criminal investigation.

47 (g) The provisions of this section apply only to those persons in the physical custody of  
48 the Commissioner of Corrections and Rehabilitation.

**§15A-2-16. Monitoring of inmate electronic correspondence; procedures and restrictions;**  
**to or from attorneys excepted.**

1 (a) The Commissioner of Corrections and Rehabilitation, or his or her designee, is  
2 authorized to monitor, intercept, record, and disclose electronic communications to or from adult  
3 inmates of state institutions under his or her control, in accordance with the following provisions:

4 (1) All adult inmates of state institutions shall be notified in writing that their electronic  
5 communications may be monitored, intercepted, recorded, and disclosed;

6 (2) Only the commissioner, superintendent, or their designees, shall have access to copies  
7 or recordings of inmates' electronic communications unless disclosed pursuant to subdivision (4)  
8 of this subsection;

9 (3) Notice shall be prominently placed on, or immediately near, every electronic  
10 communications device that may be monitored;

11 (4) The contents of inmates' electronic communications may be disclosed to an  
12 appropriate law-enforcement agency, or the West Virginia Intelligence Fusion Center, when  
13 disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard  
14 the orderly operation of the correctional institution. Disclosure may be made in civil or  
15 administrative proceedings pursuant to an order of a court or an administrative tribunal when the  
16 disclosure is:

17 (A) Necessary to safeguard and protect the orderly operation of the correctional institution;

18 or

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

20 (5) All recordings or copies of electronic communications shall be retained for at least  
21 three years and maintained and destroyed in accordance with the record retention policy of the  
22 Division of Corrections and Rehabilitation adopted pursuant to §5A-8-1 et seq. of this code; or

23 (6) To safeguard the sanctity of the attorney-client privilege, a method of electronic  
24 communications that is not monitored shall be made available for communications to or from an  
25 attorney. These communications shall not be monitored, intercepted, recorded, or disclosed in  
26 any matter.

27 (b) The commissioner shall promulgate a policy directive establishing a record-keeping  
28 procedure which requires retention of: (1) A copy of the contents of any inmate electronic  
29 communication provided to law enforcement; and (2) the name of the law-enforcement officer and  
30 the law-enforcement agency to which the contents of the communications were provided. The  
31 records required to be retained pursuant to this subsection shall be retained in accordance with  
32 the record retention policy specified in subdivision (5), subsection (a) of this section. The inmate's  
33 electronic communication and the information regarding law enforcement are law-enforcement  
34 records under §29B-1-4(a)(4) of this code.

35 (c) Should an inmate be charged with a crime based, in whole or in part, on the inmate's  
36 electronic communication supplied to law enforcement, the inmate's attorney in the criminal  
37 matter shall be entitled to access to and copies of the inmate's electronic communications in the  
38 custody of the commissioner which are not evidence in or the subject of another criminal  
39 investigation.

40 (d) The provisions of this section shall apply only to those persons in the physical custody  
41 of the Commissioner of Corrections and Rehabilitation.

**§15A-2-17. Reports by Commissioner of Corrections and Rehabilitation and chief officers**  
**of institutions to Auditor.**

1 The Commissioner of Corrections and Rehabilitation shall, from time to time, as may be  
2 necessary, make a report to the Auditor, which shall state the name of each person employed at

3 any of the institutions named in §15A-2-3 of this code, his or her official designation and biweekly  
4 rate of compensation, and out of what funds or appropriation the same is payable. The chief officer  
5 of the institution, or other person who may have been appointed for the purpose by the  
6 Commissioner of Corrections and Rehabilitation, shall make and certify to the Auditor at the end  
7 of each month a list of persons to whom any payments may be due, stating for what purpose due,  
8 the amount due each person, and the fund or appropriation from which payable; one copy whereof  
9 shall be filed in the office of the institution where made, and one in the office of the Commissioner  
10 of Corrections and Rehabilitation. If the Auditor finds the list correct and in accordance with the  
11 reports made to him or her by the Commissioner of Corrections and Rehabilitation, he or she may  
12 pay to the persons entitled thereto the amounts so certified as due each.

**§15A-2-18. Trustee accounts and funds, earnings and personal property of inmates and residents.**

1 (a) The Commissioner of Corrections and Rehabilitation is authorized to establish at each  
2 institution under his or her jurisdiction a "Trustee Fund". The superintendent of each institution  
3 shall receive and take charge of the money and personal property, as defined by policy, of all  
4 inmates or residents in his or her institution and all money or personal property, as defined by  
5 policy, sent to the inmates or residents or earned by the inmates as compensation for work  
6 performed while they are domiciled there. The superintendent shall credit the money and earnings  
7 to the inmate or resident entitled to it and shall keep an accurate account of all the money and  
8 personal property so received, which account is subject to examination by the Commissioner of  
9 Corrections and Rehabilitation. The superintendent shall deposit the moneys in one or more  
10 responsible banks in accounts to be designated "Trustee Fund".

11 (b) For all felony sentenced inmates and residents, except those serving life without mercy  
12 and those the superintendent determines are likely to serve the remainder of their natural lives in  
13 the custody of the Division of Corrections and Rehabilitation due to their age and the length of  
14 their sentences, the superintendent shall keep in an account at least 10 percent of all money

15 earned during the inmate's or resident's incarceration and pay the money to the inmate or resident  
16 at the time of the inmate's or resident's release. The superintendent may authorize the inmate to  
17 withdraw money from his or her mandatory savings for the purpose of preparing the inmate for  
18 reentry into society.

19 (c) The Commissioner of Corrections and Rehabilitation may direct that offenders who  
20 work in community work programs, including work release inmates who have obtained  
21 employment, make reimbursement to the state toward the cost of his or her incarceration.

22 (d)(1) Prior to ordering an incarcerated offender to make reimbursement toward the costs  
23 of his or her incarceration, the commissioner, or his or her designee, shall consider the following:

24 (A) The offender's ability to pay;

25 (B) The nature and extent of the offender's responsibilities to his or her dependents, if any;

26 (C) The length of probable incarceration under the court's sentence; and

27 (D) The effect, if any, that reimbursement might have on the offender's rehabilitation.

28 (2) No order of reimbursement entered pursuant to this section may exceed \$500 per  
29 month unless the offender gives his or her express consent.

30 (3) The Commissioner of Corrections and Rehabilitation shall, prior to the beginning of  
31 each fiscal year, prepare a report that details the average cost per inmate incurred by the division  
32 for the care and supervision of those individuals in his or her custody.

33 (e) The superintendent of any facility, on request of an inmate or resident, may expend up  
34 to one half of the money earned by the inmate or resident on behalf of the family of the inmate or  
35 resident if the 10 percent mandatory savings has first been set aside and other fees or court  
36 ordered obligations owed by the inmate or resident have been paid. The remainder of the money  
37 earned, after deducting amounts expended as authorized, shall be accumulated to the credit of  
38 the inmate or resident and be paid to the inmate or resident at times as may be prescribed by  
39 rules. The funds so accumulated on behalf of inmates or residents shall be held by the chief  
40 executive officer of each institution under a bond approved by the Attorney General.

41 (f) The superintendent shall deliver to the inmate or resident at the time he or she leaves  
42 the institution, or as soon as practicable after departure, all personal property, moneys and  
43 earnings then credited to the inmate or resident, or in case of the death of the inmate or resident  
44 before authorized release from the institution, the superintendent shall deliver the property to the  
45 inmate's or resident's personal representative. In case a conservator is appointed for the inmate  
46 or resident while he or she is domiciled at the institution, the superintendent shall deliver to the  
47 conservator, upon proper demand, all moneys and personal property belonging to the inmate or  
48 resident that are in the custody of the superintendent.

49 (g) If any money is credited to a former inmate or resident after remittance of the sum of  
50 money as provided in subsection (f) of this section, the commissioner shall notify the former  
51 inmate or resident within thirty days of receipt of the money. The former inmate or resident will be  
52 afforded the opportunity to collect the money if he or she pays the cost of the transaction. If the  
53 former inmate or resident does not claim the money within thirty days of receiving the notice and  
54 the sum of money is less than \$10, the commissioner may place the money into the inmate benefit  
55 fund.

**§15A-2-19. Inmate benefit funds.**

1 (a) The Commissioner of Corrections and Rehabilitation shall establish an inmate benefit  
2 fund for each of the institutions under his or her jurisdiction. The inmate benefit fund is a fund held  
3 by the institutions for the benefit and welfare of inmates incarcerated, or juveniles placed, in  
4 facilities under the jurisdiction of the commissioner, and for the benefit of victims.

5 (b) There is continued a special revenue account in the State Treasury for each inmate,  
6 or resident, benefit fund established by the commissioner. If an account does not currently exist  
7 for a facility, the commissioner may establish the account for that facility. Moneys received by an  
8 institution for deposit in an inmate benefit fund shall be deposited with the State Treasurer to be  
9 credited to the special revenue account created for the institution's inmate benefit fund: *Provided,*  
10 That commissions on any contract providing services to jail inmates shall not be deposited into



11 this account, until the Bond Service Debt is fully satisfied. Moneys in a special revenue account  
12 established for an inmate benefit fund may be expended by the institution for the purposes set  
13 forth in this section. Moneys to be deposited into an inmate benefit fund consist of, but are not  
14 limited to:

15 (1) All profit from the exchange or commissary operation and if the commissary is operated  
16 by a vendor, whether a public or private entity, the profit is the negotiated commission paid to the  
17 Division of Corrections and Rehabilitation by the vendor;

18 (2) All net proceeds from vending machines used for inmate visitation;

19 (3) All proceeds from contracted inmate telephone commissions;

20 (4) Any funds that may be assigned by inmates or donated to the institution by the general  
21 public or an inmate service organization on behalf of all inmates;

22 (5) Any funds confiscated considered contraband; and

23 (6) Any unexpended balances in individual inmate trustee funds if designated by the  
24 inmate upon his or her discharge from the institution.

25 (c) The inmate benefit fund may only be used for the following purposes at facilities:

26 (1) Open-house visitation functions or other nonroutine inmate functions;

27 (2) Holiday functions which may include decorations and gifts for children of inmates;

28 (3) Cable television service;

29 (4) Rental of video cassettes;

30 (5) Payment of video license;

31 (6) Recreational supplies, equipment, or area surfacing;

32 (7) Reimbursement of employee wages for overtime incurred during open-house  
33 visitations and holiday functions;

34 (8) Post-secondary education classes;

35 (9) Reimbursement of a pro rata share of inmate work compensation;

36 (10) Household equipment and supplies in day rooms or units as approved by chief

37 executive officers of institutions, excluding supplies used in the daily maintenance and sanitation  
38 of the unit;

39 (11) Christmas or other holidays gift certificates for each inmate to be used at the  
40 exchange or commissary;

41 (12) Any expense associated with the operation of the fund;

42 (13) Expenditures necessary to properly operate an automated inmate family and victim  
43 information notification system;

44 (14) Any expense for improvement of the facility which will benefit the inmate population  
45 that is not otherwise funded;

46 (15) Any expense related to the installation, operation, and maintenance of the inmate  
47 telephone system; and

48 (16) For restitution of any negative balance on any inmate's trustee account for inmate  
49 medical copay, legal and ancillary related postage, and photocopy fees that are due the State of  
50 West Virginia, if the balance is uncollectible from an inmate after one calendar year from an  
51 inmate's release on parole or discharge date.

52 (d) The institution shall compile a monthly report that specifically documents inmate benefit  
53 fund receipts and expenditures and a yearly report for the previous fiscal year by September 1 of  
54 each year and submit the reports to the commissioner.

**§15A-2-20. Financial responsibility program for inmates.**

1 (a) The Legislature finds that:

2 (1) There is an urgent need for vigorous enforcement of child support, restitution, and  
3 other court ordered obligations;

4 (2) The duty of inmates to provide for the needs of dependent children, including their  
5 necessary food, clothing, shelter, education, and health care should not be avoided because of  
6 where the inmate resides;

7 (3) A person owing a duty of child support who chooses to engage in behaviors that result

8 in the person becoming incarcerated should not be able to avoid child support obligations; and

9 (4) Each sentenced inmate should be encouraged to meet his or her legitimate court-  
10 ordered financial obligations.

11 (b) As part of the initial classification process into a correctional facility, the Division of  
12 Corrections and Rehabilitation shall assist the inmate in developing a financial plan for meeting  
13 the inmate's child support obligations, if any exist. At subsequent program reviews, the division  
14 shall consider the inmate's efforts to fulfill those obligations as indicative of that individual's  
15 acceptance and demonstrated level of responsibility.

16 (c)(1) The superintendent shall deduct from the earnings of each inmate, legitimate court-  
17 ordered financial obligations. The superintendent shall also deduct child support payments from  
18 the earnings of each inmate who has a court-ordered financial obligation. The Commissioner of  
19 the Division of Corrections and Rehabilitation shall develop a policy that outlines the formula for  
20 the distribution of the offender's income and the formula shall include a percentage deduction, not  
21 to exceed 50 percent in the aggregate, for any court ordered victim restitution, court fees and child  
22 support obligations owed under a support order, including an administrative fee, consistent with  
23 the provisions of §48-14-6(c) of this code, to support the Division of Correction and  
24 Rehabilitation's administration of this financial service.

25 (2) If the inmate worker's income is subject to garnishment for child support enforcement  
26 deductions, it shall be calculated on the net wages after taxes, legal financial obligations, and  
27 garnishment.

28 (3) The Division of Corrections and Rehabilitation shall develop the necessary  
29 administrative structure to record inmates' wages and keep records of the amount inmates pay  
30 for child support.

31 (4) Nothing in this section limits the authority of the Bureau for Child Support Enforcement  
32 of the Department of Health and Human Resources from taking collection action against an  
33 inmate's moneys, assets, or property.

34 (d) If an inmate is awarded a Civil Judgment which awards him or her monetary damages,  
35 the Court in which those damages are awarded shall enter an Order which deducts all outstanding  
36 child support, restitution, or other Court Ordered obligations from the award to the inmate, and  
37 satisfies those obligations, prior to releasing any funds to the inmate.

38 (e) The accumulation of the total funds, not necessary for current distribution, shall be  
39 invested, with the approval of the commissioner or as appropriate, the director, through the West  
40 Virginia Municipal Bond Commission, in short term bonds or treasury certificates or equivalent of  
41 the United States. Bonds and certificates so purchased shall remain in the custody of the State  
42 Treasurer. The earnings from investments so made shall be reported to the principal officer of  
43 each institution from time to time, as earned, and shall be credited to the respective accounts of  
44 the institutions by the West Virginia Municipal Bond Commission.

45 When the earnings are transferred to the respective institutions, they shall be credited by  
46 the principal officer to the credit of, and for the benefit of, the inmate benefit fund.

**§15A-2-21. Limitation on reimbursement rate to medical service providers for services  
outside division facilities.**

1 The division, or its contracted medical providers, may not pay an amount to an outside  
2 provider of a medical service for an adult inmate residing in a jail or correctional facility greater  
3 than the reimbursement rate applicable to service providers established by legislative rule of the  
4 Bureau for Medical Service within the Department of Health and Human Resources: *Provided,*  
5 That critical access hospitals shall be reimbursed at seventy-five percent of the billed charges.  
6 These limitations apply to all medical care services, goods, prescription drugs, and medications  
7 provided to a person who is in the custody of a correctional facility and is provided these services  
8 outside of a correctional facility: *Provided, however,* That the Department of Military Affairs and  
9 Public Safety and the Department of Health and Human Resources effectuate an interagency  
10 agreement for the electronic processing and payment of medical services.

**§15A-2-22. Mutual aid agreements.**

1       (a) The commissioner may enter into agreements to provide for the rendering of mutual  
 2 aid with the political subdivisions of this state, other states and the federal government to provide  
 3 for the common defense, protect the public peace, health and safety and to preserve the lives  
 4 and property of the people of this state.

5       (b) Any agreement entered into under this section shall be with the consent and approval  
 6 of the Secretary of the Department of Military Affairs and Public Safety, and shall include a  
 7 provision within each agreement allowing for the immediate termination by the secretary or  
 8 commissioner at any time.

**§15A-2-23. Title to property of state institutions; custody of deeds and other muniments of title; authority of Commissioner.**

1       The title to all property constituting or belonging to the several institutions named in §15A-  
 2 2-3 of this code is vested in the state. The Commissioner of Corrections and Rehabilitation is  
 3 custodian of all deeds and other muniments of title and shall cause such as are susceptible of  
 4 recordation to be recorded in the proper offices. All current leases for or involving the West Virginia  
 5 Penitentiary in Moundsville, title to which is vested in the Commissioner, are hereby abolished  
 6 immediately. The commissioner is authorized, as lessor, to lease the West Virginia penitentiary  
 7 in Moundsville, title to which is vested in the state by prior enactment of this article, for a term of  
 8 not more than five years. Any agreement entered into under this section shall be with the consent  
 9 and approval of the Secretary of the Department of Military Affairs and Public Safety, and shall  
 10 include a provision within each agreement allowing for the immediate termination by the secretary  
 11 or commissioner at any time.

**§15A-2-24. Charges assessed against inmates for services provided by state.**

1       (a) The commissioner is authorized to assess inmates serving a sentence in any state jail,  
 2 penal, or correctional facility reasonable charges for health care and treatment services provided  
 3 to them by the state. The charges assessed against an inmate may be deducted directly from the  
 4 inmate's trustee account without the inmate's consent. The inmate shall be notified of the amount

5 deducted and the charges to which it has been applied.

6 (b) As used in this section, a “reasonable charge” may not exceed the sum of \$25 for any  
7 billable service. Inmates shall be notified of the fee schedule, billable services, and exempt  
8 services. Services initiated by the inmate shall be assessed a fee, except that no charge may be  
9 assessed for: (1) A specific health care service required under the law of this state, including, by  
10 way of illustration, tuberculin testing; (2) an emergency service following a traumatic injury other  
11 than a self-induced injury, or necessary to prevent death or severe or permanent disability; (3)  
12 diagnosis and treatment of communicable diseases, including, by way of illustration, tuberculosis  
13 or hepatitis; (4) treatment of diagnosed severe mental illness; (5) treatment of specific chronic  
14 conditions identified by the commissioner, including, by way of illustration, heart disease and  
15 diabetes; (6) staff-initiated care, including follow-up and referral visits; (7) preventive services that  
16 the commissioner determines are to be provided or made available to all inmates, including  
17 services related to disease prevention and promotion of proper health habits; or (8) other services  
18 as may be exempted by rule of the commissioner. Any inmate who intentionally ingests, inhales,  
19 injects, absorbs, applies, or otherwise exposes himself or herself to, in any manner whatsoever  
20 not otherwise specified herein, an illegal drug, a drug not legally prescribed to him or her, a drug  
21 in quantities above that recommended by a prescribing physician, a synthetic intoxicant, or any  
22 substance for the purpose of causing an excited, euphoric, or stupefied state, or altered  
23 perception, including hallucinations or delusions, and the inmate requires medical treatment due  
24 to the ingestion, inhalation, injection, absorption, application, or exposure shall reimburse the cost  
25 of the medical treatment to the division. No inmate may be denied any necessary billable medical  
26 service because of inability to pay the charge.

27 (c) If an inmate requires medical care, of any sort, because of a self-induced drug  
28 overdose, the inmate shall be responsible for reimbursing the division the entire cost of the  
29 medical care.

30 (d) Each inmate shall be afforded an opportunity at least quarterly to review all deposits

31 into, withdrawals from, and balance remaining in the inmate's trustee account during the  
32 preceding three months.

33 (e) The commissioner shall promulgate a policy directive implementing this section prior  
34 to making any assessment under this section. The policy directive rules may establish the fee  
35 schedule and list of billable services and further define services to be exempted.

**§15A-2-25. Officers and employees of corrections institutions.**

1 The Commissioner of Corrections and Rehabilitation shall appoint a Superintendent for  
2 each institution under the control of the Division of Corrections and Rehabilitation. The  
3 Commissioner of Corrections and Rehabilitation, or his or her designee, has the authority to  
4 manage and administer the finances, business, operations, security, and personnel affairs of  
5 correctional units under the jurisdiction of the Division of Corrections and Rehabilitation. All  
6 persons employed at a state-operated correctional institution or correctional unit are subject to  
7 the supervision and approval of the chief executive officer and the authority of the Commissioner  
8 of Corrections and Rehabilitation, or his or her designee, except those persons employed by the  
9 State Board of Education, pursuant to §18-2-13f of this code.

10 The superintendent of each institution or correctional unit has the power to hire all  
11 assistants and employees required for the management of the institution in his or her charge; but  
12 the number of the assistants and employees, and their compensation, shall first be approved by  
13 the state Commissioner of Corrections and Rehabilitation. All prospective correctional employees  
14 shall pass a preemployment drug screening prior to being hired. It is the duty of the Commissioner  
15 of Corrections and Rehabilitation to investigate any complaint made against the superintendent  
16 of any institution, and against any other officer or employee thereof, if the same has not been  
17 investigated.

**§15A-2-26. Record of inmate or resident.**

1 The Commissioner of Corrections and Rehabilitation shall file and preserve the record of  
2 the indictment and conviction, in the case of an adult, or the charges and adjudication, in the case

3 of a juvenile, of each inmate or resident, and keep a register describing him or her, the term of his  
4 or her confinement, for what offense, and when received into the institution.

**§15A-2-27. Manufacture of license plates, road signs or markers; securing signs and markers when federal government reimburses state for cost thereof.**

1 For the purpose of obtaining license plates to be used upon motor vehicles licensed for  
2 operation in this state and road signs or markers of any description for state roads, the West  
3 Virginia Commissioner of Corrections and Rehabilitation is hereby authorized and empowered on  
4 behalf of the state, to establish and operate a plant for the manufacture of the license plates and  
5 road signs or markers in his or her institutions.

6 It shall be unlawful for any state official or employee to manufacture or obtain the license  
7 plates, road signs, or markers otherwise than as herein specified: *Provided*, That the  
8 Commissioner of Highways may originally secure road signs or markers from sources other than  
9 that provided herein.

**§15A-2-28. Special compensation of officers and employees prohibited; penalty.**

1 No officer or employee shall receive, directly or indirectly, any other compensation for his  
2 or her services than that provided by law, or by the state Commissioner of Corrections and  
3 Rehabilitation before his or her appointment, nor shall he or she receive any compensation  
4 whatever, directly or indirectly, for any act or service which he or she may do or perform for or on  
5 behalf of any contractor, or agent, or employee of a contractor. For every violation of this section  
6 the officer, agent, or employee of the state engaged therein shall be dismissed from his or her  
7 office or service, and every contractor, or employee, or agent of a contractor, engaged therein  
8 shall be expelled from the grounds of an institution, and not again employed in it as a contractor,  
9 agent, or employee.

**§15A-2-29. Gifts to or dealings with convicts.**

1 No officer or employee of the state, or contractor, or employee of a contractor, shall make  
2 any gift or present to an inmate or resident, or receive any from an inmate or resident, or have



3 any barter or dealings with a convict, except as allowed and permitted by the commissioner.

4 For every violation of this section, the party engaged therein shall be dismissed from his  
5 or her office or service, and every contractor, or employee, or agent of a contractor, engaged  
6 therein shall be expelled from any facility within the jurisdiction of the Commissioner of the Division  
7 of Corrections and Rehabilitation, and not again employed in it as a contractor, agent, or  
8 employee.

**§15A-2-30. Deduction from sentence for good conduct for inmates convicted and**  
**sentenced on felonies and placed into the custody of the Division of Corrections**  
**and Rehabilitation; mandatory supervision.**

1 (a) All current and future adult inmates sentenced to a felony and, placed in the custody  
2 of the Division of Corrections and Rehabilitation, except those committed pursuant to §25-4-1 et  
3 seq. of this code, shall be granted commutation from their sentences for good conduct in  
4 accordance with this section: *Provided*, That nothing in this section shall be considered to  
5 recalculate the “good time” of inmates currently serving a sentence, except for those inmates  
6 currently serving a sentence for a misdemeanor, or of giving back good time to inmates who have  
7 previously lost good time earned for a disciplinary violation.

8 (b) The commutation of sentence, known as “good time”, shall be deducted from the  
9 maximum term of indeterminate sentences or from the fixed term of determinate sentences.

10 (c) Each inmate committed to the custody of the Commissioner of Corrections and  
11 Rehabilitation and incarcerated in a facility pursuant to that commitment shall be granted one day  
12 good time for each day he or she is incarcerated, including any and all days in jail awaiting  
13 sentence which are credited by the sentencing court to his or her sentence pursuant to §61-11-  
14 24 of this code or for any other reason relating to the commitment. An inmate may not be granted  
15 any good time for time served either on parole or bond or in any other status when he or she is  
16 not physically incarcerated.

17 (d) An inmate sentenced to serve a life sentence is not eligible to earn or receive any good

18 time pursuant to this section.

19 (e) An inmate under two or more consecutive sentences shall be allowed good time as if  
20 the several sentences, when the maximum terms of the consecutive sentences are added  
21 together, were all one sentence.

22 (f) The Commissioner of Corrections and Rehabilitation shall promulgate disciplinary rules  
23 and policies. The rules and policies shall describe acts that inmates are prohibited from  
24 committing, procedures for charging individual inmates for violation of the rules and for  
25 determining the guilt or innocence of inmates charged with the violations, and the sanctions which  
26 may be imposed for the violations. A copy of the rules shall be given to each inmate. For each  
27 violation, by a sanctioned inmate, any part or all of the good time which has been granted to the  
28 inmate pursuant to this section may be forfeited and revoked by the superintendent or  
29 superintendent of the institution in which the violation occurred. The superintendent or  
30 superintendent, when appropriate and with approval of the commissioner, may restore any  
31 forfeited good time.

32 (g) Each inmate, upon his or her commitment to, and being placed into the custody of the  
33 Commissioner of Corrections and Rehabilitation, or upon his or her return to custody as the result  
34 of violation of parole pursuant to §62-12-19 of this code, shall be given a statement setting forth  
35 the term or length of his or her sentence or sentences and the time of his or her minimum  
36 discharge computed according to this section.

37 (h) Each inmate shall be given a revision of the statement described in subsection (g) of  
38 this section when any part or all of the good time has been forfeited and revoked or restored  
39 pursuant to subsection (f) of this section, by which the time of his or her earliest discharge is  
40 changed.

41 (i) The superintendent may, with the approval of the commissioner, allow extra good time  
42 for inmates who perform exceptional work or service.

43 (j) There shall be no grants or accumulations of good time or credit to any current or future

44 inmate serving a sentence in the custody of the Division of Corrections and Rehabilitation except  
45 in the manner provided in this section.

46 (k) Prior to the calculated discharge date of an inmate serving a sentence for a felony  
47 crime of violence against the person, a felony offense where the victim was a minor child or a  
48 felony offense involving the use of a firearm, one year shall be deducted from the inmate's  
49 accumulated good time to provide for one year of mandatory post-release supervision following  
50 the first instance in which the inmate reaches his or her calculated discharge date. All inmates  
51 released pursuant to this subsection shall be subject to electronic or GPS monitoring for the entire  
52 period of supervision. The provisions of this subsection are applicable to offenses committed on  
53 or after July 1, 2013.

54 (l) Upon sentencing of an inmate for a felony offense not referenced in subsection (k) of  
55 this section, the court may order that 180 days of the sentence, or some lesser period, be served  
56 through post-release mandatory supervision if the court determines supervision is appropriate  
57 and in the best interest of justice, rehabilitation and public safety. All inmates released pursuant  
58 to this subsection shall be subject to electronic or GPS monitoring for the entire period of  
59 supervision. The provisions of this subsection are applicable to offenses committed on or after  
60 July 1, 2013.

61 (m) The Commissioner of Corrections and Rehabilitation shall adopt policies and  
62 procedures to implement the mandatory supervision provided for in subsections (k) and (l) of this  
63 section, which may include terms, conditions, and procedures for supervision, modification, and  
64 violation applicable to persons on parole.

65 (n) As used in this section, "felony crime of violence against the person" means felony  
66 offenses set forth in §61-2-1 et seq., §61-3E-1 et seq., §61-8B-1 et seq. or §61-8D-1 et seq. of  
67 this code, and the felony offenses of arson and burglary of a residence where an individual is  
68 physically located at the time of the offense as set forth in §61-3-1 et seq. one of this code.

69 (o) As used in this section, "felony offense where the victim was a minor child" means any

70 felony crime of violence against the person and any felony offense set forth in §61-8-1 et seq.,  
71 §61-8A-1 et seq., §61-8C-1 et seq. or §61-8D-1 et seq. of this code.

**§15A-2-31. Governor's authority to authorize Commissioner of Corrections and Rehabilitation to consent to transfer of inmates under a federal treaty.**

1 If a treaty in effect between the United States and a foreign country provides for the  
2 transfer or exchange of convicted offenders to the country of which they are citizens or nationals,  
3 the Governor may, on behalf of the state and subject to the terms of the treaty and with the  
4 consent of the offender, authorize the Commissioner of Corrections and Rehabilitation to consent  
5 to the transfer or exchange of inmates in his or her custody and take any other action necessary  
6 to initiate the participation of this state in the treaty. No transfer may occur pursuant to the  
7 provisions of this section until the inmate is informed of his or her rights and the procedures  
8 involved in his or her native language unless it is determined that the inmate's knowledge of  
9 English is sufficient.

**§15A-2-32. Mentally diseased convicts; treatment; transfer between penal and mental health facilities; penal facility procedures.**

1 (a) No person who is, or was considered to be, mentally ill, intellectually disabled, or  
2 addicted shall be denied parole or a parole hearing based upon the past or present condition. In  
3 the event a convicted person is deemed to be an appropriate candidate for parole, but for a  
4 condition warranting involuntary hospitalization of the person, shall be paroled, and proceedings  
5 instituted pursuant to §27-5-4 of this code. Any time spent in such a facility shall be considered  
6 part of the term, and any person whose sentence expires while receiving treatment for a mental  
7 condition shall be discharged unless proceedings have been instituted and a determination made  
8 pursuant to §27-5-4 of this code.

9 (b) When a convicted person in a jail, prison, or other facility is believed to be mentally ill,  
10 intellectually disabled, or addicted, as those terms are defined in §27-1-1 et seq. of this code, and  
11 in need of treatment, training, or other services, the facts relating to the illness, shall be presented

12 to the chief administrative officer of the facility. The facts may be presented by a correctional  
13 officer, member of a correctional institution medical staff, relative, or the convicted person.  
14 Immediately upon receipt of the facts, the superintendent shall arrange for psychiatric or  
15 psychological examination of the person alleged to be so afflicted. If the report of the examination  
16 is to the effect that the individual is mentally ill, intellectually disabled, or addicted and that  
17 treatment, training, or other services are required which cannot reasonably be provided at the  
18 correctional facility, the chief administrative officer shall file within 20 days after presentation of  
19 the facts an application for transfer with the clerk of the circuit court of the county of location of  
20 the correctional facility. The application for transfer shall include a statement of the nature of the  
21 treatment which the person's condition warrants and the facility to which transfer is sought.

22 Within 10 days of receipt of the application from the superintendent, the mental hygiene  
23 commissioner or circuit judge shall appoint counsel for the convicted person if the person is  
24 indigent.

25 The clerk of the circuit court shall forthwith notify the convicted person, by certified mail,  
26 return receipt requested, delivered only to addressee, that the application has been filed,  
27 enclosing therewith a copy of the application with an explanation of the place and purpose of the  
28 transfer and the type of treatment to be afforded, together with the name, address, and telephone  
29 number of any appointed counsel. The person shall be afforded reasonable telephone access to  
30 his or her counsel. The clerk shall also notify the superintendent or other chief administrative  
31 officer of the facility to which transfer is sought. Within 15 days after receipt of notice, the convicted  
32 person, through counsel, shall file a verified return admitting or denying the allegations and  
33 informing the court or mental hygiene commissioner as to whether the respondent wishes to  
34 oppose the transfer. Counsel shall file the return only after personal consultation with the  
35 convicted person. The superintendent of the facility to which transfer is sought shall also file a  
36 return within 15 days of the receipt of notice, informing the court or mental hygiene commissioner  
37 as to whether the needed treatment or other services can be provided within that facility. If the

38 superintendent objects to receiving the convicted person for treatment or services, the reasons  
39 for the objection shall be specified in detail.

40 If the transfer is opposed by either the convicted person or by the superintendent of the  
41 facility to which transfer is sought, the matter shall forthwith be set for hearing, in no event to  
42 exceed 30 days from the date of the return opposing the transfer, and the clerk shall provide to  
43 the convicted person, the superintendent of the facility to which transfer is sought, and the  
44 superintendent of the correctional facility, at least 10 days' written notice, by certified mail, return  
45 receipt requested, of the purpose, time, and place of the hearing.

46 The convicted person shall be present at the hearing, and be afforded an opportunity to  
47 testify and to present and cross-examine witnesses. Counsel for the convicted person shall be  
48 entitled to copies of all medical reports upon request. The person shall have the right to an  
49 examination by an independent expert of the person's choice and testimony from the expert as a  
50 medical witness on the person's behalf. The cost of providing the medical expert shall be borne  
51 by the state if the person is indigent. The person shall not be required to give testimony which is  
52 self-incriminating. The circuit court or mental hygiene commissioner shall hear evidence from all  
53 parties, in accord with the rules of evidence. A transcript or recording shall be made of all  
54 proceedings, and transcript made available to the person within 30 days, if the same is requested  
55 for the purpose of further proceedings, and without cost if the person is indigent.

56 Upon completion of the hearing, and consideration of the evidence presented therein, the  
57 circuit court or mental hygiene commissioner shall make findings of facts as to whether or not: (1)  
58 The individual is mentally ill, intellectually disabled, or addicted; (2) the individual because of  
59 mental illness, mental retardation, or addiction is likely to cause serious harm to self or others; (3)  
60 the individual could not obtain the requisite treatment or training at the correctional facility or  
61 another appropriate correctional facility; and (4) the designated facility to which transfer is sought  
62 could provide the treatment or training with the security as the court finds appropriate; and, if all  
63 the findings are in the affirmative, the circuit court may order the transfer of the person to the

64 appropriate facility. The findings of fact shall be incorporated into the order entered by the circuit  
65 court. In all proceedings hereunder, proof of mental condition and of likelihood of serious harm  
66 must be established by clear, cogent, and convincing evidence, and the likelihood of serious harm  
67 must be based upon evidence of recent overt acts.

**§15A-2-33. Exempt from Purchasing Division; purchasing procedures.**

1 (a) The provisions established in §5-3-1 et seq. of this code do not apply to the Division of  
2 Corrections and Rehabilitation, or any institution under the control of the Division of Corrections  
3 and Rehabilitation. The division is exempt from the state Purchasing Division.

4 (b) When the cost under any contract or agreement entered into by the division, other than  
5 compensation for personal services, involves an expenditure of more than \$2,000, the division  
6 shall make a written contract with the lowest responsible bidder after public notice published as a  
7 Class II legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, the  
8 publication area for the publication to be the county or counties wherein the work is to be  
9 performed or which is affected by the contract, which notice shall state the general character of  
10 the work and general character of the materials to be furnished, the place where plans and  
11 specifications therefor may be examined and the time and place of receiving bids. But a contract  
12 for lease of a correctional facility is not subject to the foregoing requirements and the division may  
13 enter into the contract for lease pursuant to negotiation upon the terms and conditions and for the  
14 period as it finds to be reasonable and proper under the circumstances and in the best interests  
15 of proper operation or efficient acquisition or construction of the projects. The division may reject  
16 any and all bids. A bond with good and sufficient surety, approved by the division, shall be required  
17 of all contractors in an amount equal to at least fifty percent of the contract price, conditioned  
18 upon faithful performance of the contract.

**§15A-2-34. Funds for operations of jails under the jurisdiction of the Commissioner of**  
**Corrections and Rehabilitation.**

1 (a) All funds previously created by the Commissioner of the Division of Corrections, the

2 Division of Corrections, the Executive Director of the Regional Jail and Corrections Facility  
3 Authority, or the Regional Jail and Correctional Facility Authority are hereby transferred to the  
4 Commissioner of the Division of Corrections and Rehabilitation. The commissioner may create  
5 special funds in the State Treasury to identify various revenue sources and payment of specific  
6 obligations. These funds may be used for purposes that include, but are not limited to, the  
7 construction, renovation, or repair of specific facilities, cash control, facility maintenance, and the  
8 individual operations accounts of facilities operated by the division. The authority may create other  
9 separate accounts within these funds that it determines are necessary for the efficient operation  
10 of the division: *Provided*, That the funds, and any moneys therein, previously established by the  
11 Regional Jail and Correctional Facility Authority, are continued, and are hereby transferred to the  
12 Division of Corrections and Rehabilitation.

13 (b) The fund shall be limited in use to operations of jail functions, and for payment to the  
14 Regional Jail Correctional Facility Authority Board for payment of indebtedness. In no case shall  
15 the fund be utilized to offset or pay operations of nonjail parts of the facility: *Provided*, That funds  
16 may be utilized on a pro rata share for shared staff, and operational expenses of facilities being  
17 used as both prisons and jails.

18 (c) Whenever the commissioner determines that the balance in these funds is more than  
19 the immediate requirements of this article, he or she may request that the excess be invested  
20 until needed. In this case, the excess shall be invested in a manner consistent with the investment  
21 of temporary state funds. Interest earned on any money invested pursuant to this section shall be  
22 credited to these funds.

23 (d) These funds consist of the following:

24 (1) Moneys collected and deposited in the State Treasury which are specifically  
25 designated by Acts of the Legislature for inclusion in these funds;

26 (2) Contributions, grants, and gifts from any source, both public and private, specifically  
27 directed to the operations of jails under the control of the Commissioner;



28 (3) All sums paid pursuant to subsection (h) of this section; and

29 (4) All interest earned on investments made by the state from moneys deposited in these  
30 funds.

31 (e) The amounts deposited in these funds shall be accounted for and expended in the  
32 following manner:

33 (1) Amounts deposited shall be pledged first to the debt service on any bonded  
34 indebtedness;

35 (2) After any requirements of debt service have been satisfied, the Commissioner shall  
36 requisition from these funds the amounts that are necessary to provide for payment of the  
37 administrative expenses of this article, as limited by this section;

38 (3) The Commissioner shall requisition from these funds, after any requirements of debt  
39 service have been satisfied, the amounts that are necessary for the maintenance and operation  
40 of jails under his or her control. These funds shall make an accounting of all amounts received  
41 from each county by virtue of any filing fees, court costs or fines required by law to be deposited  
42 in these funds and amounts from the jail improvement funds of the various counties;

43 (4) Notwithstanding any other provisions of this article, sums paid into these funds by each  
44 county pursuant to subsection (h) of this section for each inmate shall be placed in a separate  
45 account and shall be requisitioned from these funds to pay for costs incurred; and

46 (5) Any amounts deposited in these funds from other sources permitted by this article shall  
47 be expended based on particular needs to be determined by the Commissioner.

48 (f)(1) After a jail facility becomes available pursuant to this article for the incarceration of  
49 inmates, each county within the region shall incarcerate all persons whom the county would have  
50 incarcerated in any jail prior to the availability of the jail facility in the jail facility, except those  
51 whose incarceration in a local jail facility used as a local holding facility is specified as appropriate  
52 under the previously promulgated, and hereby transferred standards and procedures developed  
53 by the Jail Facilities Standards Commission, and whom the sheriff or the circuit court elects to

54 incarcerate therein.

55 (2) Notwithstanding the provisions of subdivision (1) of this subsection, circuit and  
56 magistrate courts are authorized to:

57 (A) Detain persons who have been arrested or charged with a crime, in a county or  
58 municipal jail, specified as appropriate under the standards and procedures referenced in  
59 subdivision (1) of this subsection, for a period not to exceed ninety-six hours; or

60 (B) Commit persons convicted of a crime in a county or municipal jail, specified as  
61 appropriate under the standards and procedures referenced in subdivision (1) of this subsection,  
62 for a period not to exceed 14 days.

63 (g) When inmates are placed in a jail facility under the jurisdiction of the Commissioner  
64 pursuant to subsection (f) of this section, the county, and municipality if the incarceration is a  
65 municipal violation, shall pay into this fund a cost per day for each incarcerated inmate to be  
66 determined by the state Budget Office, by examining the most recent three years of costs  
67 submitted by the Commissioner of the Division of Corrections and Rehabilitation for the cost of  
68 operating the jail facilities and units under his or her jurisdiction, and taking an average per day,  
69 per inmate cost of maintaining the operations of the jail facilities or units: *Provided, That in no*  
70 case, shall any County or Municipality be required to pay a rate that exceeds \$55 per day, per  
71 inmate.

72 The per diem costs for incarcerating inmates may not include the cost of construction,  
73 acquisition, or renovation of the regional jail facilities: *Provided, That each jail facility or unit*  
74 operating in this state shall keep a record of the date and time that an inmate is incarcerated and  
75 a county may not be charged for a second day of incarceration for an individual inmate until that  
76 inmate has remained incarcerated for more than 24 hours. After that, in cases of continuous  
77 incarceration, subsequent per diem charges shall be made upon a county only as subsequent  
78 intervals of 24 hours pass from the original time of incarceration.

**§15A-2-35. Jail Operations Partial Reimbursement Fund.**

1 (a) There is continued in the State Treasury a new fund designated the Jail Operations  
2 Partial Reimbursement Fund.

3 (b) Revenues deposited into this Fund shall be composed of fees collected by magistrate  
4 courts pursuant to §50-3-1(g) and §50-3-2(a)(3) of this code and by circuit courts pursuant to §59-  
5 1-11 of this code.

6 (c) Revenues deposited into this Fund shall be used to reimburse those counties and  
7 municipalities participating in the Division of Corrections and Rehabilitation jail system for the cost  
8 of incarceration.

9 (d) The State Treasurer shall, in cooperation with the Division of Corrections and  
10 Rehabilitation, administer the Fund. The State Treasurer shall determine the amount of funds  
11 available for reimbursement and, upon receiving a report from the commissioner which presents  
12 the total number of inmate days in the fiscal year immediately concluded, the State Treasurer  
13 shall calculate the reimbursement to each participant based upon a pro rata share formula:  
14 Provided, That only counties and municipalities which are not delinquent in payments for moneys  
15 to incarcerate its offenders more than 90 days on July 1 of each year are eligible to receive this  
16 reimbursement, and this pro rata share shall not include the counties or municipalities which are  
17 not eligible pursuant to this.

18 (e) A participant's share shall be comparable with its total of inmate days, which shall  
19 consist of the number of inmates it contributed to the regional jail system and the number of days  
20 those inmates remained incarcerated.

21 (f) This shall be disbursed annually, within 90 days of July 1 each year, as provided in  
22 subsection (d) of this section.

**§15A-2-36. Work program.**

1 (a) The commissioner is authorized to establish at each facility a work program for qualified  
2 inmates. The commissioner shall establish guidelines and qualifications to allow inmates  
3 sentenced to a regional jail facility to be gainfully employed with local businesses and

4 governmental entities as part of a job program. A qualified inmate does not include an inmate  
5 convicted of a sexual offense or a violent felony.

6 (b) An inmate who works in work programs established under this section may make  
7 reimbursement to the division toward the cost of his or her incarceration to be credited to the  
8 agency billed for that incarceration, pursuant to the conditions set forth in §15A-3-18 of this code.

9 (c) Notwithstanding any provision of this code to the contrary, the county commission, its  
10 members and agents, the Division of Corrections and Rehabilitation or designee, its employees,  
11 agents, or assigns, the Region Jail and Correctional Facility Authority, its members, agents, or  
12 assigns, the sheriff, his or her deputies, shall be immune from all liability of any kind except for  
13 accident, injury, or death resulting directly from gross negligence or malfeasance.

### **ARTICLE 3. BUREAU OF PRISONS AND JAILS.**

#### **§15A-3-1. Creation of Bureau of Prisons and Jails; organization of facilities.**

1 The Commissioner of Corrections and Rehabilitation shall establish a Bureau of Prisons  
2 and Jails. To the extent practicable, and in a manner consistent with providing for the safety of  
3 the public, correctional employees, and inmates, the commissioner will create space in every  
4 adult institution for both jail and prison populations: *Provided*, That in no case shall the  
5 commissioner be required to provide jail space in every institution in excess of space necessary  
6 for initial receiving, booking, and holding of an inmate to await transport by the Division of  
7 Corrections and Rehabilitation to the most appropriate housing placement for that inmate. In no  
8 case may a person who is a pretrial detainee, who is not currently serving a felony sentence in  
9 the custody of the commissioner, be held in a space designated as a prison unit. Further, no  
10 convicted misdemeanant actively serving a sentence on a misdemeanor shall be held in a space  
11 designated as a prison unit.

#### **§15A-3-2. Hiring of other assistants and employees; duties of correctional employees.**

1 The Superintendent of the correctional institutions or units shall, in the manner provided  
2 in §15A-2-25 of this code, hire all assistants and employees required for the management of the

3 correctional institutions or units, including a sufficient number of correctional employees to  
4 preserve order and enforce discipline among the inmates, to prevent escapes, and to remove all  
5 persons convicted and sentenced to the custody of the Division of Corrections and Rehabilitation,  
6 from the place confined to a correctional institution, all of whom shall be under the control of the  
7 superintendent. Any person employed by the office of the Commissioner of the Division of  
8 Corrections and Rehabilitation who on the effective date of this article is a classified civil service  
9 employee shall, within the limits contained in §29-6-2 of this code, remain in the civil service  
10 system as a covered employee.

**§15A-3-3. Duties of superintendents; bond; residence.**

1 The superintendent is the chief executive officer of his or her assigned correctional  
2 institution and, subject to the direction of the commissioner, has the responsibility for the overall  
3 management of all operations within his or her assigned institution. He or she is in charge of its  
4 internal police and management and shall provide for feeding, clothing, working and taking care  
5 of the inmates, subject to the control of the Commissioner of Corrections and Rehabilitation:  
6 Provided, That the Commissioner of Corrections and Rehabilitation may authorize the  
7 superintendent to establish an imprest fund in accordance with the provisions of §12-2-2 of this  
8 code for the sole purpose of providing employees with funds to transport inmates for any purpose  
9 as determined by the superintendent, and any of the fund that currently exists is hereby continued.  
10 The employee is required to complete a travel reimbursement form for the travel within five days  
11 of returning to the correctional facility. The funds shall be used to reimburse the imprest fund for  
12 the amount expended by the employee. The superintendent shall promptly enforce all orders and  
13 rules made by the commissioner. He or she shall protect and preserve the property of the state  
14 and may for that purpose punish the inmates in the manner authorized by the Commissioner of  
15 Corrections and Rehabilitation. The superintendent shall have the custody and control of all the  
16 real and personal property at the correctional institution, subject to the orders of the Commissioner  
17 of Corrections and Rehabilitation. The superintendent shall be bonded by the Board of Risk and

18 Insurance Management.**§15A-3-4. Appointment of deputy superintendent; duties; bond.**

1 The superintendent, with the approval of the commissioner, may hire a deputy  
2 superintendent. The deputy superintendent's duties shall be fixed by the superintendent, as  
3 approved by the commissioner. In the absence of the superintendent the deputy superintendent  
4 shall perform all the duties required of the superintendent. The deputy superintendent shall be  
5 bonded by the Board of Risk and Insurance Management.

**§15A-3-5. Pretrial risk assessment.**

1 (a) Within three calendar days of the arrest and placement of any person in a jail, the  
2 division shall conduct a pretrial risk assessment using a standardized risk assessment instrument  
3 approved and adopted by the Supreme Court of Appeals of West Virginia. The results of all  
4 standardized risk and needs assessments are confidential and shall only be provided to the court,  
5 court personnel, the prosecuting attorney, defense counsel, and the person who is the subject of  
6 the pretrial risk assessment. Upon completion of the assessment, the Division of Corrections and  
7 Rehabilitation shall provide it to the magistrate and circuit clerks for delivery to the appropriate  
8 circuit judge or magistrate.

9 (b) The pretrial risk assessment and all oral or written statements made by an individual  
10 during risk assessment shall be inadmissible evidence at any criminal or civil trial.

**§15A-3-6. Jail processing fee.**

1 (a) A person committed to be housed in jail by order of magistrate, circuit judge, or by  
2 temporary commitment order shall, at the time of initial booking into the jail, pay a processing fee  
3 of \$30. If the person is unable to pay at the time of booking, the fee shall be deducted, at a rate  
4 of 50 percent, from any new deposits made into the person's trust account until the jail processing  
5 fee is paid in full. The fee shall be credited to:

6 (1) The Jail's operating budget if the person is committed to and housed in a jail;

7 (2) The county commission if the person is committed to and housed in a county jail; or

8           (3) The municipality if the person is committed to and housed in a municipal jail. The fee  
9 should be paid prior to the offender being released.

10           (b) A refund of a fee collected under this section shall be made to a person who has paid  
11 the fee if the person is not convicted of the offense for which the person was booked and the  
12 person provides documentation from the court showing that all charges for which the person was  
13 booked were dismissed, accurate current name and address and a valid photographic  
14 identification. In the case of multiple offenses, if the person is convicted of any of the offenses the  
15 fee may not be refunded. If the person is convicted of a lesser included offense or a related  
16 offense, no refund may be made.

#### **§15A-3-7. Ability to refuse offenders.**

1           Notwithstanding any other provision of this code, the commissioner, or any employee of  
2 the division, having authority to accept offenders in a jail is not required to accept those offenders  
3 if an offender appears to be in need of medical attention of a degree necessitating treatment by  
4 a physician. If an offender is refused pursuant to the provisions of this section, he or she may not  
5 be accepted for detention until a written clearance from a licensed physician reflecting that the  
6 offender has been examined and if necessary treated, and which states that it is the physician's  
7 medical opinion that the offender can be safely housed in a jail.

### **ARTICLE 4. BUREAU OF JUVENILE SERVICES.**

#### **§15A-4-1. Creation of Bureau of Juvenile Services; organization of facilities.**

1           The Commissioner of Corrections and Rehabilitation shall establish a Bureau of Juvenile  
2 Services. This bureau shall consist of any juvenile facilities or units, as determined pursuant to  
3 §15A-2-3 of this code.

#### **§15A-4-2. Transfer of duties and funds.**

1           All prior conveyed responsibilities and duties of the Division of Juvenile Services, and the  
2 Director of Juvenile Services, outlined in chapter 49 of this code, are hereby transferred and  
3 conveyed to the Division of Corrections and Rehabilitation, and to its Commissioner. Any funds

4 previously created for or by the Division of Juvenile Services are hereby transferred to the Division  
5 of Corrections and Rehabilitation, and its Commissioner.

**§15A-4-3. Duties of superintendents; bond; residence.**

1 The superintendent is the chief executive officer of his or her assigned correctional  
2 institution and, subject to the direction of the commissioner, has the responsibility for the overall  
3 management of all operations within his or her assigned institution. He or she is in charge of its  
4 internal police and management and shall provide for feeding, clothing, working, and caring for  
5 the inmates, subject to the control of the Commissioner of Corrections and Rehabilitation:  
6 Provided, That the Commissioner of Corrections and Rehabilitation may authorize the  
7 superintendent to establish an imprest fund in accordance with the provisions of §12-2-2 of this  
8 code for the sole purpose of providing employees with funds to transport juveniles for any purpose  
9 as determined by the superintendent. The employee is required to complete a travel  
10 reimbursement form for the travel within five days of returning to the facility. The funds shall be  
11 used to reimburse the imprest fund for the amount expended by the employee. The  
12 superintendent shall promptly enforce all orders and rules made by the commissioner. He or she  
13 shall protect and preserve the property of the state and may enforce the disciplinary procedures  
14 for the institution authorized by the Commissioner of Corrections and Rehabilitation. The  
15 superintendent shall have the custody and control of all the real and personal property at the  
16 institution, subject to the orders of the Commissioner of Corrections and Rehabilitation. The  
17 superintendent shall be bonded by the Board of Risk and Insurance Management.

**§15A-4-4. Appointment of deputy superintendent; duties; bond.**

1 The superintendent, with the approval of the commissioner, may hire a deputy  
2 superintendent. The deputy superintendent's duties shall be fixed by the superintendent, as  
3 approved by the commissioner. In the absence of the superintendent the deputy superintendent  
4 shall perform all the duties required of the superintendent. The deputy superintendent shall be  
5 bonded by the Board of Risk and Insurance Management.



**§15A-4-5. Hiring of other assistants and employees; duties of correctional employees.**

1        The superintendent of the juvenile institutions or units shall, in the manner provided in  
2 §15A-2-25 of this code, hire all assistants and employees required for the management of the  
3 juvenile institutions or units, including a sufficient number of correctional employees to preserve  
4 order and enforce internal rules among the juveniles inmates, to prevent escapes, and carry out  
5 all other responsibilities as outlined in chapter 49 of this code. All of these employees shall be  
6 under the control of the superintendent. Any person employed by the office of the Commissioner  
7 of the Division of Corrections and Rehabilitation who on the effective date of this article is a  
8 classified civil service employee shall, within the limits contained in §29-6-2 of this code, remain  
9 in the civil service system as a covered employee.

**§15A-4-6. Commitments of Juveniles to the division, when the juvenile is over the age of**  
**18.**

1        Notwithstanding any other provisions of this code, when a juvenile reaches the age of 18,  
2 and is continued in the custody of the Commissioner or Division of Corrections and Rehabilitation  
3 past his or her 18<sup>th</sup> birthday as a juvenile offender, and not a juvenile transferred to the adult  
4 jurisdiction of the Court, he or she shall be removed from the juvenile facility wherein he or she is  
5 placed, and transferred to a facility separate and apart from juvenile offenders under the age of  
6 18.

**ARTICLE 5. BUREAU OF COMMUNITY CORRECTIONS.**

**§15A-5-1. Creation of Bureau of Community Corrections; Organization of facilities.**

1        The Commissioner of Corrections and Rehabilitation shall establish a Bureau of  
2 Community Corrections. This bureau shall consist of any community corrections facilities or units,  
3 as determined pursuant to §15A-3-1 of this code, and any and all parole units in the division.

**§15A-5-2. Hiring of other assistants and employees; duties of correctional employees.**

1        (a) The superintendents of community corrections facilities, as determined by the  
2 Commissioner pursuant to 15A-3-2 of this code, shall, in the manner provided in §15A-2-25 of

3 this code, hire all assistants and employees required for the management of these facilities or  
4 units, including a sufficient number of correctional employees to preserve order and enforce  
5 discipline among the inmates or parolees, to prevent escapes, to enforce laws, rules, and policies,  
6 and to protect the public. Any person employed by the office of the Commissioner of the Division  
7 of Corrections and Rehabilitation who on the effective date of this article is a classified civil service  
8 employee shall, within the limits contained in §29-6-2 of this code, remain in the civil service  
9 system as a covered employee.

10 (b) The commissioner shall, in the manner provided in §15A-2-25 of this code, hire all  
11 probation and parole officers, assistants, and employees required to carry out the duties as  
12 proscribed in this code for management of the parolee population, and probation population, as  
13 set forth in §15A-5-4 and §62-13-2(b) of this code, for the management of parolees, to preserve  
14 order, and enforce discipline among the parolees, to enforce laws, rules, and policies, and to  
15 protect the public. Any person employed by the office of the Commissioner of the Division of  
16 Corrections and Rehabilitation who on the effective date of this article is a classified civil service  
17 employee shall, within the limits contained in §29-6-2 of this code, remain in the civil service  
18 system as a covered employee. Nothing in this section shall limit the abilities of the Supreme  
19 Court of Appeals of this state to carry forth their responsibilities and duties as proscribed in this  
20 code. All persons appointed or employed by the director shall be paid all necessary expenses  
21 incurred in the discharge of their duties.

**§15A-5-3. Director of employment; director of housing; released inmates; duties.**

1 The Commissioner of Corrections and Rehabilitation may employ or contract for a director  
2 of employment and a director of housing for released inmates. The director of employment shall  
3 work with federal, state, county, and local government and private entities to negotiate  
4 agreements which facilitate employment opportunities for released inmates. The director of  
5 housing shall work with federal, state, county, and local government and private entities to  
6 negotiate agreements which facilitate housing opportunities for released inmates. The director of

7 employment shall investigate job opportunities and give every possible assistance in helping  
8 released inmates find employment. The director of housing shall work in conjunction with the  
9 parole division and the Parole Board to reduce release delays due to lack of a home plan, develop  
10 community housing resources, and provide short-term loans to released inmates for costs related  
11 to reentry into the community.

**§15A-5-4. Duties of superintendents; bond; residence.**

1 The superintendent of a community corrections facility shall have the same duties and  
2 responsibilities as described in §15A-3-1 et seq. of this code.

**§15A-5-5. Supervision of probationers and parolees under the care and custody of the**  
**Division of Corrections and Rehabilitation; final determinations remaining with**  
**board of probation and parole.**

1 The Commissioner of Corrections and Rehabilitation shall supervise all persons released  
2 on parole and placed in the charge of a state parole officer and all persons released on parole  
3 under any law of this state. He or she shall also supervise all probationers and parolees whose  
4 supervision may have been undertaken by this state by reason of any interstate compact entered  
5 into pursuant to the uniform act for out-of-state probation and parolee supervision. The  
6 commissioner shall prescribe rules for the supervision of probationers and parolees under his or  
7 her supervision and control, and shall succeed to all administrative and supervisory powers of the  
8 board of probation and parole and the authority of the board of probation and parole in those  
9 matters only.

10 The Commissioner of Corrections and Rehabilitation shall administer all other laws  
11 affecting the custody, control, treatment, and employment of persons sentenced or committed to  
12 institutions under the supervision of the department or affecting the operation and administration  
13 of institutions or functions of the department.

14 The final determination regarding the release of inmates from penal institutions and the  
15 final determination regarding revocation of parolees from those institutions pursuant to the

16 provisions of §12A-12-1 et seq. of this code shall remain within the exclusive jurisdiction of the  
17 board of probation and parole.

**§15A-5-6. Powers and duties of state parole officers.**

1 (a) Each state probation and parole officer, employed by the Division of Corrections and  
2 Rehabilitation shall:

3 (1) Investigate all cases referred to him or her for investigation by the Commissioner of  
4 Corrections and Rehabilitation and report in writing on the investigation;

5 (2) Update the standardized risk and needs assessment adopted by the Division of  
6 Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom  
7 an assessment has not been conducted for parole by a specialized assessment officer;

8 (3) Supervise each parolee according to the assessment and supervision standards  
9 determined by the Commissioner of Corrections and Rehabilitation;

10 (4) Furnish to each parolee under his or her supervision a written statement of the  
11 conditions of his or her parole together with a copy of the rules prescribed by the Commissioner  
12 of Corrections and Rehabilitation for the supervision of parolees;

13 (5) Keep informed concerning the conduct and condition of each parolee under his or her  
14 supervision and report on the conduct and condition of each parolee in writing as often as required  
15 by the Commissioner of Corrections and Rehabilitation;

16 (6) Use all practicable and suitable methods to aid and encourage a parolee and to bring  
17 about improvement in his or her conduct and condition;

18 (7) Keep detailed records of his or her work;

19 (8) Keep accurate and complete accounts of and give receipts for all money collected from  
20 parolees under his or her supervision and pay over the money to persons designated by a circuit  
21 court or the Commissioner of Corrections and Rehabilitation;

22 (9) Give bond with good security, to be approved by the Commissioner of Corrections and  
23 Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the

24 Commissioner of Corrections and Rehabilitation; and

25 (10) Perform any other duties required by the Commissioner of Corrections and  
26 Rehabilitation.

27 (b) Each probation and parole officer, as described in this article, may, with or without an  
28 order or warrant: (1) Arrest or order confinement of any parolee or probationer under his or her  
29 supervision; and (2) Search a parolee or probationer, or a parolee or probationer's residence or  
30 property, under his or her supervision. A probation and parole officer may apply for a search  
31 warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's  
32 activities. He or she has all the powers of a notary public, with authority to act anywhere within  
33 the state.

34 (c) The Commissioner of Corrections and Rehabilitation may issue a certificate authorizing  
35 any state parole officer who has successfully completed the Division of Corrections and  
36 Rehabilitation's training program for firearms certification, which is the equivalent of that required  
37 of deputy sheriffs, to carry firearms or concealed weapons. Any parole officer authorized by the  
38 Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and  
39 concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections  
40 and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm  
41 or concealed weapon bearing the official signature of the Commissioner of Corrections and  
42 Rehabilitation.

**§15A-5-7. Parole supervision benefit fund.**

1 (a) There is continued a special revenue account in the State Treasury designated the  
2 "Parole Supervision Benefit Fund". The fund is to be used by the Division of Corrections and  
3 Rehabilitation for the benefit of parolee supervision with approval of the commissioner. The fund  
4 shall consist of moneys received from any source, including, but not limited to, funds donated by  
5 the general public or an organization dedicated to parole supervision improvement, and funds  
6 seized from parolees that are forfeited pursuant to the provisions of §60A-7-1 et seq. of this code.

7           (b) Notwithstanding any other provision of this code to the contrary, the commissioner may  
 8 authorize use of the money in the fund created pursuant to this section for payment to a  
 9 community corrections program established pursuant to §62-11C-1 et seq. of this code for  
 10 providing enhanced supervision of parolees.

**ARTICLE 6. REGIONAL JAIL AND CORRECTIONAL AUTHORITY BOARD.**

**§15A-6-1. Powers and authority of the Regional Jail and Correctional Facility Authority Board; continuation of the Regional Jail and Correctional Facility Authority Board; payment of bonds; appeal of per diem rate.**

1           The Regional Jail and Correctional Facility Authority Board is continued, as follows:

2           (1) The powers and authority of the Regional Jail and Correctional Facility Authority Board,  
 3 in relation to all functions of correctional operations, are hereby abolished, and these powers and  
 4 authority are transferred to the Division of Corrections and Rehabilitation. The Regional Jail and  
 5 Correctional Facility Authority Board shall only retain the powers as now outlined in this chapter.  
 6 Whenever, in this code, reference is made to the Regional Jail and Correctional Facility Authority,  
 7 in relation to operations of any of the regional jails, it shall be construed to mean the Division of  
 8 Corrections and Rehabilitation.

9           (2) The following powers and authority of the Regional Jail and Correctional Facility Board  
 10 are hereby specifically abolished:

11           (A) To mortgage or otherwise grant security interests in its property;

12           (B) To borrow money and to issue its negotiable bonds, security interests, or notes and to  
 13 provide for and secure the payment thereof, and to provide for the rights of the holders thereof,  
 14 and to purchase, hold, and dispose of any of its bonds, security interests, or notes: *Provided*, That  
 15 no bond or other obligation may be issued or incurred unless and until the Legislature by  
 16 concurrent resolution has approved the purpose and amount of each project for which proceeds  
 17 from the issuance of the bond or other obligation will be used;

18           (C) To sell, at public or private sale, any bond or other negotiable instrument, security

19 interest or obligation of the authority in a manner and upon terms that the authority considers  
20 would best serve the purposes of this article;

21 (D) To issue its bonds, security interests and notes payable solely from the revenues or  
22 other funds available to the authority therefor; and the authority may issue its bonds, security  
23 interests, or notes in those principal amounts as it considers necessary to provide funds for any  
24 purposes under this article, including:

25 (i) The payment, funding, or refunding of the principal of, interest on, or redemption  
26 premiums on, any bonds, security interests, or notes issued by it whether the bonds, security  
27 interests, notes, or interest to be funded or refunded have or have not become due; and

28 (ii) The establishment or increase of reserves to secure or to pay bonds, security interests,  
29 notes, or the interest thereon and all other costs or expenses of the Division of Corrections and  
30 Rehabilitation incident to and necessary or convenient to carry out its purposes and powers. Any  
31 bonds, security interests, or notes may be additionally secured by a pledge of any revenues,  
32 funds, assets, or moneys of the authority from any source whatsoever;

33 (E) To issue renewal notes or security interests, to issue bonds to pay notes or security  
34 interests and, whenever it considers refunding expedient, to refund any bonds by the issuance of  
35 new bonds, whether the bonds to be refunded have or have not matured except that no renewal  
36 notes shall be issued to mature more than 10 years from date of issuance of the notes renewed  
37 and no refunding bonds may be issued to mature more than 25 years from the date of issuance;

38 (F) To apply the proceeds from the sale of renewal notes, security interests, or refunding  
39 bonds to the purchase, redemption, or payment of the notes, security interests, or bonds to be  
40 refunded; and

41 (G) To sell security interests in the loan portfolio of the authority. The security interests  
42 shall be evidenced by instruments issued by the authority. Proceeds from the sale of security  
43 interests may be issued in the same manner and for the same purposes as bond and note  
44 revenues.

45           (3) The powers and duties of the board in relation to paying the current bond series,  
46 designated as The State Building Commission of West Virginia Lease Revenue Refunding Bonds  
47 (West Virginia Regional Jail and Correctional Facility Authority) Series 1998A, Series 1998B, and  
48 Series 1998C are specifically continued. The board, however, may not reissue these bonds,  
49 renegotiate the terms of the current bonds, or refinance these bonds. There is hereby created in  
50 the State Treasury a Regional Jail and Correctional Facility Board Fund. The fund shall be  
51 controlled by the board, and shall be utilized for the sole purpose of payment of the outstanding  
52 bond series as provided above. The Commissioner of the Division of Corrections and  
53 Rehabilitation shall, on or before the fifth day of every month, transfer to this fund the amount  
54 necessary for the monthly payment of the bond, as set forth by the yearly communication from  
55 the creditor of the bonds. Further, on the effective date of this section, the commissioner shall  
56 transfer to this fund the reserve amount required by the bonds. On the date that the bonds are  
57 satisfied in full, these obligations shall cease, and any funds left in the board fund shall be  
58 transferred to the Commissioner of the Division of Corrections and Rehabilitation for the purpose  
59 of operating the Division of Corrections and Rehabilitation. Further, the board retains the authority  
60 to be able, and with consent of the Secretary of the Department of Military Affairs and Public  
61 Safety, to the extent permitted under its contracts with the holders of bonds, security interests, or  
62 notes of the authority, consent to any modification of the rate of interest, time of payment of any  
63 installment of principal or interest, security or any other term of any bond, security interest, note,  
64 or contract or agreement of any kind to which the authority is a party.

65           (4) The Regional Jail Authority shall review the per diem cost set by the state Budget  
66 Office, pursuant to §15A-2-35 of this code. If the authority believes that the amount set by the  
67 state Budget Office is incorrect, or that the amounts submitted by the Division of Corrections and  
68 Rehabilitation include more than what should be attributed to the efficient operation of jail facilities  
69 and units, the authority may institute an action in regard to this pursuant to §29A-1-1 et seq. of  
70 this code.



71 (5) The Regional Jail Authority retains the ability to sue, as defined in this article, and to  
72 be sued.

**§15A-6-2. West Virginia Regional Jail and Correctional Facility Authority; composition; appointment; terms; compensation and expenses.**

1 The West Virginia Regional Jail and Correctional Facility Authority is continued. The  
2 members of the board in office on the date this section takes effect shall, unless sooner removed,  
3 continue to serve until their respective terms expire and until their successors have been  
4 appointed and qualified.

5 The authority shall be governed by a board of nine members, seven of whom are entitled  
6 to vote on matters coming before the authority. The complete governing board shall consist of the  
7 Commissioner of the Division of Corrections; the Assistant Commissioner for the Bureau of  
8 Juvenile Services; the Secretary of the Department of Military Affairs and Public Safety; the  
9 Secretary of the Department of Administration, or his or her designated representative; three  
10 county officials appointed by the Governor, no more than two of which may be of the same political  
11 party; and two citizens appointed by the Governor to represent the areas of law and medicine.  
12 The Commissioner of the Division of Corrections and Rehabilitation and the Assistant  
13 Commissioner for the Bureau of Juvenile Services shall serve in an advisory capacity and are not  
14 entitled to vote on matters coming before the authority. Members of the Legislature are not eligible  
15 to serve on the board.

16 The Governor shall nominate and, by and with the advice and consent of the Senate,  
17 appoint the five appointed members of the authority for staggered terms of four years.

18 Any appointed member whose term has expired shall serve until his or her successor has  
19 been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the  
20 unexpired term. Any appointed member is eligible for reappointment. Members of the board are  
21 not entitled to compensation for services performed as members, but are entitled to  
22 reimbursement for all reasonable and necessary expenses actually incurred in the performance

23 of their duties.

24 All members of the board shall execute an official bond in a penalty of \$10,000,  
 25 conditioned as required by law. Premiums on the bond shall be paid from funds accruing to the  
 26 Division of Corrections and Rehabilitation. The bond shall be approved as to form by the Attorney  
 27 General and as to sufficiency by the Governor and, when fully executed and approved, shall be  
 28 filed in the office of the Secretary of State.

**§15A-6-3. Governing body; organization and meetings; quorum; administrative expenses.**

1 (a) The board shall consist of the voting members of the board as provided for in §15A-6-  
 2 2 of this code and shall exercise all the powers given to the authority in this article. On the second  
 3 Monday of July of each odd-numbered year, the board shall meet to elect a chairman and a  
 4 secretary from among its own members. The secretary of the Department of Administration or his  
 5 or her designated representative shall serve as treasurer of the board. The board shall otherwise  
 6 meet two times a year, unless a special meeting is called by its chairman.

7 (b) A majority of the members of the board constitute a quorum, and a quorum must be  
 8 present for the board to conduct business. Unless the bylaws require a larger number, action may  
 9 be taken by majority vote of the members present.

10 (c) The board shall prescribe, amend, and repeal bylaws and rules governing the manner  
 11 in which the business of the authority is conducted and shall review and approve the budget  
 12 prepared by the executive director annually.

13 (d) All costs incidental to the administration of the board shall be paid from the jail  
 14 operation fund by the Commissioner of Corrections and Rehabilitation.

**CHAPTER 19. AGRICULTURE.**

**ARTICLE 12A. LAND DIVISION.**

**§19-12A-5. Powers, duties and responsibilities of commission.**

1 (a) On or before July 1, 1990, the commission shall meet and confer with respect to the

2 development of a management plan to determine the optimum use or disposition of all institutional  
3 farms, at which time the farm management director shall provide the commission with a complete  
4 inventory of all institutional farms, and such information relating to easements, mineral rights,  
5 appurtenances, farm equipment, agricultural products, livestock, inventories, and farm facilities  
6 as may be necessary to develop such management plan. The commission shall complete and  
7 provide to the Governor a management plan, which plan shall set forth the objectives of the  
8 commission with respect to institutional farms, the criteria by which the commission shall  
9 determine the optimum use or disposition of such property, and determinations as to whether  
10 each institutional farm shall be used in production, sold, or leased, in whole or in part. Prior to the  
11 adoption of any plan, the commission shall consult with the secretaries of the various departments  
12 of state government and shall request from such secretaries suggestions for land use and  
13 resource development on farm commission lands. On or before December 1, 1990, such  
14 management plan shall be presented to the Legislature, by providing a copy to the President of  
15 the Senate and the Speaker of the House of Delegates. The commission may confer with any  
16 other agency or individual in implementing and adjusting its management plan. The management  
17 plan established pursuant to this subsection may be amended, from time to time, as may be  
18 necessary.

19 (b) The commission shall manage its institutional farms, equipment, and other property in  
20 order to most efficiently produce food products for state institutions and shall implement the intent  
21 of the Legislature as set forth by this article. From the total amount of food, milk, and other  
22 commodities produced on institutional farms, the commission shall sell, at prevailing wholesale  
23 prices, and each of the institutions under the control of the bureau of public health and the Division  
24 of Corrections shall purchase, a proportionate amount of these products based on the dietary  
25 needs of each institution.

26 (c) If requested by the ~~commissioner of corrections~~ Commissioner of Corrections and  
27 Rehabilitation, the commission may authorize the Division of Corrections and Rehabilitation to

28 operate a farm or other enterprise using inmates as labor on those lands. The ~~commissioner of~~  
29 ~~corrections~~ Commissioner of Corrections and Rehabilitation is responsible for the selection,  
30 direction and supervision of the inmates and shall assign the work to be performed by inmates.

31 (d) The commission is hereby authorized and empowered to:

32 (1) Lease to public or private parties, for purposes including agricultural production or  
33 experimentation, public necessity, or other purposes permitted by the management plan, any  
34 land, easements, equipment, or other property, except that property may not be leased for any  
35 use in any manner that would render the land toxic for agricultural use, nor may toxic or hazardous  
36 materials as identified by the commissioner of agriculture be used or stored upon such property  
37 unless all applicable state and federal permits necessary are obtained. Any lease for an annual  
38 consideration of \$1,000 or more shall be by sealed bid auction and the commission shall give  
39 notice of such auction by publication thereof as a Class II-0 legal advertisement in compliance  
40 with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication is  
41 the county in which the property to be leased is located;

42 (2) Transfer to the public land corporation land designated in its management plan as land  
43 to be disposed of, which land shall be sold, exchanged or otherwise transferred pursuant to §20-  
44 1A-4 and §20-1A-5 of this code: *Provided*, That the net proceeds of the sale of farm commission  
45 lands shall be deposited in the General Revenue Fund of the state: *Provided, however*, That no  
46 sale may be concluded until on or after March 15, 1991, except with respect to: (A) Properties  
47 located at institutions closed on or before the effective date of this section, March 10, 1990; or (B)  
48 properties conveyed to or from the farm management commission to or from any other entity in  
49 order to facilitate the construction of a regional jail or correctional facility by the regional jail and  
50 correctional facilities authority or the state building commission, with the decision to execute any  
51 such conveyance being solely within the discretion of, and at the direction of, the regional jail and  
52 correctional facilities authority;

53 (3) Develop lands to which it has title for the public use including forestation, recreation,

54 wildlife, stock grazing, agricultural production, rehabilitation, and/or other conservation activities  
 55 and may contract or lease for the proper development of timber, oil, gas, or mineral resources,  
 56 including coal by underground mining or by surface mining where reclamation as required by  
 57 specifications of the Division of Environmental Protection will increase the beneficial use of such  
 58 property. Any such contract or lease shall be by sealed bid auction as provided for in subdivision  
 59 (1) above;

60 (4) Exercise all other powers and duties necessary to effectuate the purposes of this  
 61 article.

62 (e) Notwithstanding the provisions of subsection (d) ~~herein~~ of this section, no timberland  
 63 may be leased, sold, exchanged, or otherwise disposed of unless the Division of Forestry of the  
 64 Department of Commerce, labor and environmental resources certifies that there is no  
 65 commercially salable timber on the timberland, an inventory is provided, an appraisal of the timber  
 66 is provided, and the sale, lease, exchange, or other disposition is accomplished by the sealed bid  
 67 auction procedure provided above in subdivisions (1) or (2), as applicable.

68 (f) The commission shall promulgate, pursuant to chapter 29A of this code, rules and  
 69 regulations relating to the powers and duties of the commission as enumerated in this section.

## **CHAPTER 25. DIVISION OF CORRECTIONS.**

### **ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.**

**§25-1-1. Office of commissioner of public institutions abolished; department and  
 commissioner of corrections established; qualifications, oath and bond.**

1 [Repealed.]

**§25-1-1a. Purpose and legislative intent.**

1 [Repealed.]

**§25-1-3. Institutions managed by Commissioner of Corrections; certain institutions  
 transferred to Department of Health and Human Resources; establishment of work**

**and study release units; contracting with certain entities for reentry and direct placement services; reports to Governor.**

1 [Repealed.]

**§25-1-3a. Trustee accounts and funds, earnings and personal property of inmates.**

1 [Repealed.]

**§25-1-3b. Inmate benefit funds.**

1 [Repealed.]

**§25-1-3c. Financial responsibility program for inmates.**

1 [Repealed.]

**§25-1-4. Limitation on reimbursement rate to medical service providers for services**

1 [Repealed.]

**§25-1-5. Rules and regulations.**

1 [Repealed.]

**§25-1-5a. Mutual aid agreements.**

1 [Repealed.]

**§25-1-6. Title to property of state institutions; custody of deeds and other muniments of title; authority of commissioner.**

1 [Repealed.]

**§25-1-7. Pruntytown Correctional Center established as a minimum security facility; limitations on type of residents therein.**

1 [Repealed.]

**§25-1-8. Charges assessed against inmates for services provided by state.**

1 [Repealed.]

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

1 [Repealed.]

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

1 [Repealed.]

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

1 [Repealed.]

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

1 [Repealed.]

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

1 [Repealed.]

**§25-1-11e. Unauthorized use of uniform, badge, identification card or other insignia; impersonation of member; and penalty.**

1 [Repealed.]

**§25-1-11f. Hiring of correctional officer without regard to position on the register.**

1 [Repealed.]

**§25-1-13. Furlough programs.**

1 [Repealed.]

**§25-1-14. Electronic monitoring of offenders; special account.**

1 [Repealed.]

**§25-1-15. Diagnostic and classification divisions.**

1 [Repealed.]

**§25-1-16. Transfer of inmates of state institutions or facilities.**

1 [Repealed.]

**§25-1-16a. Governor's authority to authorize commissioner of corrections to consent to transfer of inmates under a federal treaty.**

1 [Repealed.]

**§25-1-17. Monitoring of inmate telephone calls; procedures and restrictions; calls to or**

**from attorneys excepted.**

1 [Repealed.]

**§25-1-18. Monitoring inmate mail; procedures and restrictions; identifying mail from a state correctional institution; mail to or from attorneys excepted.**

1 [Repealed.]

**§25-1-19. Reports by Commissioner of Corrections and chief officers of institutions to Auditor.**

1 [Repealed.]

**§25-1-20. Reports to Governor.**

1 [Repealed.]

**§25-1-21. Employment of displaced correctional employees at other facilities.**

1 [Repealed.]

**§25-1-22. Task Force to Study the Feasibility of Establishing a Correctional Facility for the Incarceration and Treatment of Sex Offenders; members; duties.**

1 [Repealed.]

**CHAPTER 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.**

**ARTICLE 5. THE PENITENTIARY.**

**§28-5-7. Record of convict.**

1 [Repealed.]

**§28-5-8a. Manufacture of license plates, road signs or markers; securing signs and markers when federal government reimburses state for cost thereof.**

1 [Repealed.]

**§28-5-23. Special compensation of officers and employees prohibited; penalty.**

1 [Repealed.]

**§28-5-24. Gifts to or dealings with convicts.**



1 [Repealed.]

**§28-5-27. Deduction from sentence for good conduct; mandatory supervision.**

1 [Repealed.]

## **CHAPTER 31. CORPORATIONS.**

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

**§31-20-1. Short title.**

1 [Repealed.]

**§31-20-1a. Legislative findings and purposes.**

1 [Repealed.]

**§31-20-2. Definitions.**

1 [Repealed.]

**§31-20-3. West Virginia Regional Jail and Correctional Facility Authority; composition;  
appointment; terms; compensation and expenses.**

1 [Repealed.]

**§31-20-4. Governing body; organization and meetings; quorum; administrative expenses.**

1 [Repealed.]

**§31-20-5. Powers and duties of the authority; bidding procedures.**

1 [Repealed.]

**§31-20-5a. Bidding procedures.**

1 [Repealed.]

**§31-20-5b. Prohibition against use or possession of tobacco products by inmates held by  
regional facility authority in regional jails operated solely by the authority;  
authorization to establish smoking cessation program.**

1 [Repealed.]

**§31-20-5c. Additional powers and duties of the authority; juvenile detention facilities.**

1 [Repealed.]

**§31-20-5d. Good-time credit.**

1 [Repealed.]

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

1 [Repealed.]

**§31-20-5f. Charges assessed against inmates for services provided by the authority.**

1 [Repealed.]

**§31-20-5g. Pretrial risk assessment.**

1 [Repealed.]

**§31-20-5h. Programs for inmates committed to prison.**

1 [Repealed.]

**§31-20-8. Jail facilities standards commission; appointment; compensation; vacancies; quorum.**

1 [Repealed.]

**§31-20-8a. Juvenile facilities standards commission; appointment; compensation; vacancies; quorum.**

1 [Repealed.]

**§31-20-9. Jail facilities standards commission: Purpose, powers and duties.**

1 ([Repealed.]

**§31-20-9a. Juvenile facilities standards commission; purpose; powers; and duties.**

1 [Repealed.]

**§31-20-10. Regional jail and correctional facility authority funds.**

1 [Repealed.]

**§31-20-10a. Criteria and procedures for determining the cost per day for inmates**

**incarcerated in facilities operated by the authority and allocating cost.**

1 [Repealed.]

**§31-20-10b. Regional Jail Operations Partial Reimbursement Fund.**

1 [Repealed.]

**§31-20-11. Borrowing of money.**

1 [Repealed.]

**§31-20-12. Notes, security interests and bonds as general obligations of authority.**

1 [Repealed.]

**§31-20-13. Notes, security interests and bonds as negotiable instruments.**

1 [Repealed.]

**§31-20-14. Authorizing resolutions.**

1 [Repealed.]

**§31-20-15. Redemption of notes, security interests or bonds.**

1 [Repealed.]

**§31-20-20. Authorized limit on borrowing.**

1 [Repealed.]

**§31-20-22. Money of the authority.**

1 [Repealed.]

**§31-20-23. Conflict of interest; when contracts void.**

1 [Repealed.]

**§31-20-24. Agreement with federal agencies not to alter or limit powers of authority.**

1 [Repealed.]

**§31-20-27. Employees of Regional Jail Authority; priority of hiring; civil service coverage.**

1 [Repealed.]

**§31-20-27a. Regional jail employees right to carry firearm; arrest authority of correctional officers.**

1 [Repealed.]

**§31-20-28. Limitations on contracts for sale of bonds or other securities.**

1 [Repealed.]

**§31-20-29. Furlough program.**

1 [Repealed.]

**§31-20-30. Limitation on reimbursement rate to medical service providers for services outside regional jail facilities.**

1 [Repealed.]

**§31-20-30a. Mechanical restraints during pregnancy.**

1 [Repealed.]

**§31-20-31. Work program.**

1 [Repealed.]

**§31-20-32. Jail processing fee.**

1 ([Repealed.]

## **CHAPTER 62. CRIMINAL PROCEDURE.**

### **ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-14. Appointment of probation and parole officers and clerical assistants; qualifications of officers; salaries and expenses.**

1 [Repealed.]

**§62-12-14a. Director of employment; director of housing; released inmates; duties.**

1 [Repealed.]

**§62-12-15. Powers and duties of state parole officers.**

1 [Repealed.]

### **ARTICLE 13. CORRECTIONS MANAGEMENT.**

**§62-13-3. Appointment and qualifications of director.**

1 [Repealed.]

**§62-13-4. Powers and duties of commissioner or director generally; compensation and funds of inmates.**

1 [Repealed.]

**§62-13-5. Commitments; transfers.**

1 [Repealed.]

**§62-13-6a. Payment of jail fees to county commissions.**

1 [Repealed.]

NOTE: The purpose of this bill concerns the powers and authority of the newly created Department of Military Affairs and Public Safety Divisions of Administrative Services and Corrections and Rehabilitation. The bill abolishes certain divisions and authorities. The bill sets forth legislative intent. The bill sets forth the institutions to be controlled by the Commissioner of Corrections and Rehabilitation. The bill establishes law enforcement powers. The bill establishes employment criteria. The bill establishes rules for offenders and inmates. The bill establishes certain funds and programs. The bill creates the Bureau of Prisons and Jails and sets forth its duties and responsibilities. The bill establishes the Bureau of Juvenile Services and sets forth its duties and responsibilities. The bill establishes the Bureau of Community Corrections and sets forth its duties and responsibilities. The bill creates the Regional Jail and Corrections Authority Board and sets forth its duties and responsibilities. The bill sets forth compensation. The bill defines terms. The bill requires rule-making.

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