

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

**Introduced**

### **House Bill 3120**

**FISCAL  
NOTE**

BY DELEGATES THOMPSON, EVANS, GRIFFITH, YOUNG,

WALKER, PUSHKIN, ZUKOFF AND BARACH

[Introduced March 12, 2021; Referred to the  
Committee on Veterans' Affairs and Homeland  
Security then the Judiciary]

1 A BILL to amend and reenact §15A-3-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to requiring the Commissioner of the Division of Corrections and Rehabilitation to establish  
 3 a system of medical maintenance by a physician for persons who are newly incarcerated  
 4 and have been under a medical program requiring a regular dosage of medications  
 5 necessary for treatment of a chronic condition.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.**

**§15A-3-4. Powers and duties of commissioner generally.**

1 (a) The commissioner, in order to carry out the purposes and intent of this chapter, shall:

2 (1) Exercise general supervision over the administration of the institutions under the  
 3 jurisdiction of the division;

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

9 (3) Establish rules, policies, and regulations in writing governing all subdivisions and  
 10 institutions within the division;

11 (4) Establish an appropriate training program for personnel of the division;

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

14 (6) Establish a system of classification of inmates and residents, through a reception and  
 15 examination procedure;

16 (7) Cooperate with the Department of Education in providing for the education of inmates  
 17 and residents in all institutions within the division, as provided in §18-2-13f of this code and any  
 18 other provision of this code;

19 (8) Supervise the treatment, custody, and discipline of all inmates and residents and the  
20 maintenance of the institutions and their industries;

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

26 (10) Subject to the provisions in §25-1A-5 of this code, provide for the transportation of  
27 inmates between the jails and local holding facilities for court appearances; and

28 (11) Establish a system of medical maintenance by a physician for situations when a  
29 person, who is newly incarcerated, has been under a medical program requiring a regular dosage  
30 of medications necessary for treatment of a chronic condition. The system shall require an initial  
31 interview or examination within 24 hours of incarceration by a physician or physician assistant  
32 working for a managed care organization that provides medical services to a jail or correctional  
33 facility. The system may require a method to expedite transmission of the inmate's medical  
34 records from his or her regular physician or health service.

35 (b) The commissioner, in order to carry out the purposes and intent of this chapter, may:  
36 (1) Appoint a deputy commissioner to assist in the day to day operations of the division;  
37 (2) Employ professional and support staff, including, but not limited to, certified public  
38 accountants, attorneys, assistants, and other employees as necessary for the efficient operation  
39 of the division;

40 (3) Acquire, own, hold, and dispose of property, real and personal, tangible, and intangible;

41 (4) Lease property, whether as a lessee or lessor;

42 (5) Conduct examinations and investigations and hear testimony and take proof, under  
43 oath or affirmation;

44 (6) Issue subpoenas requiring the attendance of witnesses and the production of books

45 and papers relevant to any hearing before the commissioner, or his or her designee, to conduct  
46 any hearing;

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

50 (8) Sue and be sued, implead, and be impleaded, and complain and defend in any court;

51 (9) Propose rules for legislative approval for the management and regulation of the affairs  
52 of the division pursuant to the provisions of §29A-3-1 et seq. of this code;

53 (10) Make policies for the management and regulation of the affairs of the divisions;

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

58 (12) Accept gifts or grants of property, funds, security interests, money, materials, labor,  
59 supplies, or services from the United States of America or from any governmental unit or any  
60 person, firm, or corporation, acceptance or disposition of gifts or grants; and

61 (13) Designate a facility as a rehabilitation facility; a rehabilitation facility may utilize  
62 recommendations on programming from West Virginia higher education institutions and share  
63 statistical data with the same institutions for study on the effectiveness of services provided by  
64 the institution.

NOTE: The purpose of this bill is to require the Commissioner of the Division of Corrections and rehabilitation to establish a system of medical maintenance by a physician for a person who is newly incarcerated and has been under a medical program requiring a regular dosage of medications necessary for treatment of a chronic condition.

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