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**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2008**

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**ENROLLED**

**Senate Bill No. 263**

(BY SENATORS LOVE, GREEN, HUNTER,  
MCKENZIE, WHITE AND MINARD)

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[Passed March 6, 2008; in effect ninety days from passage.]

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## **Senate Bill No. 263**

(BY SENATORS LOVE, GREEN, HUNTER,  
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[Passed March 6, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §25-1-3, §25-1-3b, §25-1-11a and §25-1-11c of the Code of West Virginia, 1931, as amended; and to amend and reenact §25-4-4 of said code, all relating generally to the Division of Corrections; updating the statutory list of correctional facilities over which the commissioner has control; providing that the commissioner is authorized to contract with the McDowell County Commission to house and incarcerate inmates at the Stevens Correctional Center; removing the commissioner's authority to serve on the Commission for Distribution of Surplus Food; providing that when a commissary in a division facility is operated by a vendor,

the negotiated commission paid by the vendor is to be deposited into the facility's inmate benefit fund; clarifying that wardens and administrators of correctional facilities are subject to the direction of the commissioner; specifying that all employees of the Division of Corrections are responsible for enforcing rules and laws necessary for the control and management of correctional units; modifying duties of those employees designated as correctional peace officers; and providing that wardens of centers for housing young adult offenders have the same powers and duties as other wardens of correctional facilities.

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

That §25-1-3, §25-1-3b, §25-1-11a and §25-1-11c of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §25-4-4 of said code be amended and reenacted, all to read as follows:

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

**§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.**

1 The Commissioner of Corrections shall manage, direct,  
2 control and govern the following penal or correctional  
3 institutions and any others placed under his or her  
4 jurisdiction or control:

5 Mount Olive Correctional Complex;

6 Huttonsville Correctional Center;

- 7 Anthony Correctional Center;
- 8 Denmark Correctional Center;
- 9 Pruntytown Correctional Center;
- 10 Northern West Virginia Correctional Center;
- 11 St. Marys Correctional Center;
- 12 Lakin Correctional Center;
- 13 Ohio County Correctional Center;
- 14 Beckley Correctional Center; and
- 15 Martinsburg Correctional Center.

16 The Commissioner of Corrections is authorized to  
17 contract with the county commission of McDowell  
18 County to house and incarcerate inmates at the Stevens  
19 Correctional Center consistent with all requirements  
20 and standards governing the Division of Corrections.

21 Jurisdiction of and title to the West Virginia  
22 Children's Home at Elkins are hereby transferred to the  
23 Department of Health and Human Resources, which is  
24 the custodian of all deeds and other muniments of title  
25 to the property and shall record those that are  
26 susceptible of recordation to be recorded in the proper  
27 offices. Notwithstanding any provision of this code to  
28 the contrary, the West Virginia Children's Home shall  
29 be managed and controlled by a superintendent  
30 appointed by the Commissioner of the Division of  
31 Human Services.

32 The commissioner is authorized to establish work and  
33 study release units as extensions and subsidiaries of  
34 those state institutions under his or her control and  
35 authority. The work and study release units may be  
36 coeducational and shall be managed, directed and  
37 controlled as provided in this article.

38 Any person employed by the Office of Public  
39 Institutions who on the effective date of this article is a  
40 classified civil service employee shall, within the limits  
41 contained in section two, article six, chapter  
42 twenty-nine of this code, remain in the civil service  
43 system as a covered employee.

**§25-1-3b. Inmate benefit funds.**

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

7 (b) There is continued a special revenue account in the  
8 State Treasury for each inmate benefit fund established  
9 by the commissioner. Moneys received by an institution  
10 for deposit in an inmate benefit fund shall be deposited  
11 with the State Treasurer to be credited to the special  
12 revenue account created for the institution's inmate  
13 benefit fund. Moneys in a special revenue account  
14 established for an inmate benefit fund may be expended  
15 by the institution for the purposes set forth in this  
16 section. Moneys to be deposited into an inmate benefit  
17 fund consist of:

18 (1) All profit from the exchange or commissary  
19 operation and if the commissary is operated by a  
20 vendor, whether a public or private entity, the profit is  
21 the negotiated commission paid to the Division of  
22 Corrections by the vendor;

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

25 (3) All proceeds from contracted inmate telephone  
26 commissions;

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

30 (5) Any funds confiscated considered contraband; and

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

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

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

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

40 (3) Cable television service;

41 (4) Rental of video cassettes;

- 42       (5) Payment of video license;
- 43       (6) Recreational supplies, equipment or area surfacing;
- 44       (7) Reimbursement of employee wages for overtime  
45 incurred during open-house visitations and holiday  
46 functions;
- 47       (8) Postsecondary education classes;
- 48       (9) Reimbursement of a pro rata share of inmate work  
49 compensation;
- 50       (10) Household equipment and supplies in day rooms  
51 or units as approved by chief executive officers of  
52 institutions, excluding supplies used in the daily  
53 maintenance and sanitation of the unit;
- 54       (11) Christmas or other holidays gift certificates for  
55 each inmate to be used at the exchange or commissary;
- 56       (12) Any expense associated with the operation of the  
57 fund;
- 58       (13) Expenditures necessary to properly operate an  
59 automated inmate family and victim information  
60 notification system;
- 61       (14) Any expense for improvement of the facility  
62 which will benefit the inmate population that is not  
63 otherwise funded; and
- 64       (15) Any expense related to the installation, operation  
65 and maintenance of the inmate telephone system.

66 (d) The institution shall compile a monthly report that  
67 specifically documents inmate benefit fund receipts and  
68 expenditures and a yearly report for the previous fiscal  
69 year by the first day of September of each year and  
70 submit the reports to the commissioner.

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

1 The warden or administrator is the chief executive  
2 officer of his or her assigned correctional institution  
3 and, subject to the direction of the commissioner, has  
4 the responsibility for the overall management of all  
5 operations within his or her assigned institution. He or  
6 she is in charge of its internal police and management  
7 and shall provide for feeding, clothing, working and  
8 taking care of the inmates, subject to the control of the  
9 Commissioner of Corrections: *Provided*, That the  
10 Commissioner of Corrections may authorize the warden  
11 or administrator to establish an imprest fund in  
12 accordance with the provisions of section two, article  
13 two, chapter twelve of this code for the sole purpose of  
14 providing employees with funds to transport inmates for  
15 any purpose as determined by the warden or  
16 administrator. The employee is required to complete a  
17 travel reimbursement form for the travel within five  
18 days of returning to the correctional facility. The funds  
19 shall be used to reimburse the imprest fund for the  
20 amount expended by the employee. The warden or  
21 administrator shall promptly enforce all orders and  
22 rules made by the commissioner. He or she shall protect  
23 and preserve the property of the state and may for that  
24 purpose punish the inmates in the manner authorized  
25 by the Commissioner of Corrections. The warden or  
26 administrator shall have the custody and control of all



27 the real and personal property at the correctional  
28 institution, subject to the orders of the Commissioner of  
29 Corrections. The warden or administrator shall be  
30 bonded by the Board of Risk and Insurance  
31 Management.

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

1 (a) The warden or administrator of the correctional  
2 institutions or units shall, in the manner provided in  
3 section eleven of this article, hire all assistants and  
4 employees required for the management of the  
5 correctional institutions or units, including a sufficient  
6 number of correctional employees to preserve order and  
7 enforce discipline among the inmates, to prevent  
8 escapes and to remove all persons convicted and  
9 sentenced to the custody of the Division of Corrections,  
10 from the place confined to a correctional institution, all  
11 of whom shall be under the control of the warden. The  
12 commissioner may issue a certificate authorizing any  
13 correctional employee who has successfully completed  
14 the division's training program for firearms  
15 certification, which shall be the equivalent of that  
16 required of deputy sheriffs, to carry firearms and  
17 concealed weapons while on duty. Any correctional  
18 employee authorized by the commissioner has the right,  
19 without a state license, to carry firearms and concealed  
20 weapons while on duty. Each correctional employee,  
21 authorized by the commissioner, shall carry with him or  
22 her a certificate authorizing him or her to carry a  
23 firearm or concealed weapon when performing his or  
24 her official duties as a correctional employee, bearing  
25 the official signature of the commissioner and warden

26 or administrator. The right is extended to a correctional  
27 employee during the time the employee travels from  
28 place to place within the state for the purpose of  
29 removing prisoners from jails to a correctional  
30 institution of the Division of Corrections, during the  
31 time the employee is pursuing and apprehending  
32 escaped inmates and during any other time the  
33 employee is performing official duties as a correctional  
34 employee. No correctional employee has the right to  
35 carry a firearm or concealed weapon for any other  
36 purpose or during any other time, including when  
37 traveling to and from the employee's residence and a  
38 correctional institution, unless the employee has  
39 obtained a state license in the manner prescribed in  
40 article seven, chapter sixty-one of this code.

41 (b) All employees of the Division of Corrections are  
42 responsible for enforcing rules and laws necessary for  
43 the control and management of correctional units and  
44 the maintenance of public safety that is within the scope  
45 of responsibilities of the Division of Corrections.

46 (c) The Commissioner of Corrections may designate  
47 correctional employees as correctional peace officers  
48 who have the authority:

49 (1) To detain persons for violations of state law  
50 committed on the property of any state correctional  
51 institution;

52 (2) To conduct investigations regarding criminal  
53 activity occurring within a correctional facility; and

54 (3) To execute criminal process or other process in  
55 furtherance of these duties.

**ARTICLE 4. CENTERS FOR HOUSING YOUNG ADULT OFFENDERS.**

**§25-4-4. Warden.**

1 Each center shall be under the direction of a warden  
2 who shall have the minimum qualification of a college  
3 degree with a major in criminal justice or a related field  
4 and the powers and duties as described in sections  
5 eleven and eleven-a, article one of this chapter. The  
6 warden shall be paid an annual salary to be fixed by the  
7 Commissioner of Corrections. The warden, subject to  
8 the authority of the commissioner, has the responsibility  
9 for the overall operation of the center.

10 At each center the warden shall administer  
11 programming which shall include the following  
12 components:

13 (1) A work program;

14 (2) An educational program in accordance with  
15 section thirteen-f, article two, chapter eighteen of this  
16 code;

17 (3) A recreational program; and

18 (4) A counseling program with an emphasis on  
19 substance abuse and life skills.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Randy White*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Darrell Holmes*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is appended* ..... this  
the *20th* Day of *March* ....., 2008.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 14 2008

Time 11:25 AM