

**Senate Bill No. 58**

(By Senator Foster)

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[Introduced January 11, 2012; referred to the Committee on the  
Judiciary.]  
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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new article, designated §25-6A-1, §25-6A-2,  
12 §25-6A-3, §25-6A-4, §25-6A-5, §25-6A-6 and §25-6A-7, all  
13 relating to authorizing circuit courts to sentence nonviolent  
14 felony offenders to work camps; requiring the Commissioner of  
15 the Division of Corrections to establish work camps for that  
16 purpose; providing definitions; determining eligibility;  
17 policy; reporting requirements; requiring Legislative Auditor  
18 to conduct a performance audit; and requiring liberal  
19 construction of article.

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

21 That the Code of West Virginia, 1931, as amended, be amended  
22 by adding thereto a new article, designated §25-6A-1, §25-6A-2,  
23 §25-6A-3, §25-6A-4, §25-6A-5, §25-6A-6 and §25-6A-7, all to read as  
24 follows:

1 **ARTICLE 6A. WORK CAMP.**

2 **§25-6A-1. Purpose of article.**

3       The purpose of this article is to establish a program of work  
4 camps that will encourage work camp inmates to become responsible,  
5 productive citizens by providing academic education, social skills,  
6 education, physical wellness program, self-discipline programs,  
7 substance abuse treatment and vocational education and counseling.  
8 It is the intent of the Legislature that such a program will create  
9 a more positive environment for both inmates and correctional  
10 employees who operate the work camp; and that will reduce the  
11 recidivism rate of persons so incarcerated.

12 **§25-6A-2. Requirement to establish work camp program.**

13       The commissioner shall establish a program of work camps, in  
14 conjunction with the boot camps, created by article six of this  
15 chapter, that may be used for eligible offenders who are sentenced  
16 to serve a term of imprisonment under the custody of the  
17 commissioner and whom the commissioner or the circuit court may  
18 permit to serve his or her sentence as a sentence to work camp in  
19 accordance with this article.

20 **§25-6A-3. Definitions.**

21       As used in this article, unless the context clearly requires  
22 a different meaning, the term:

23       (1) "Commissioner" means the Commissioner of the Division of  
24 Corrections;

1 (2) "Division" means Division of Corrections; and

2 (3) "Eligible offender" means eligible offender as defined in  
3 section four of this article.

4 **§25-6A-4. Eligibility.**

5 (a) Appropriate inmates, regardless of age, may participate in  
6 the work camp program in accordance with the following criteria:

7 (1) One who is medically, physically and psychologically fit  
8 to participate in the program;

9 (2) One who volunteers for the program;

10 (3) One who has been convicted of a felony and, has been  
11 sentenced to the custody of the commissioner for a period of  
12 incarceration of not less than one year;

13 (4) One who was not convicted of murder in the first degree or  
14 murder in the second degree;

15 (5) One who was not convicted of kidnaping;

16 (6) One who was not convicted of first or second degree sexual  
17 assault;

18 (7) One who was not convicted of any offense pursuant to  
19 article eight-d, chapter sixty-one of this code;

20 (8) One who was not convicted of incest;

21 (9) One who has not been previously convicted of a felony; and

22 (10) Other criteria the commissioner may include in  
23 legislative rules proposed for legislative approval pursuant to  
24 article three, chapter twenty-nine-a of this code.

1           (b) The circuit court of conviction may direct that a person  
2 be admitted or excluded from participation in the state work camp  
3 program. The commissioner, pursuant to operational policies and  
4 procedures, may in his or her discretion, direct placement of an  
5 inmate in a work camp program.

6           (c) Any placement in the work camp is contingent on funding  
7 being available or appropriated and subject to the availability of  
8 space in the work camp: *Provided*, That this section does not give  
9 any court the power to hold the division or any officer or employee  
10 of the division in contempt of court for failure to adhere to a  
11 circuit court directive that a person be placed in the state work  
12 camp program if space or funding is unavailable.

13 **§25-6A-5. Internal policy development.**

14           (a) The commissioner shall promulgate operational procedures  
15 and policies for the program which shall require that the pilot  
16 program be established at one site, which site shall then be under  
17 the control and authority of the division. The program shall  
18 consist of all of the following for each eligible offender whom the  
19 division permits to serve his or her sentence as a sentence to work  
20 camp:

21           (1) A period of imprisonment at the work camp of not more than  
22 twelve months which period of imprisonment shall consist of a  
23 combination of discipline, physical training and physical labor,  
24 substance abuse education, employment skills training, social

1 skills training, and psychological evaluation and treatment.  
2 Additionally, the State Board of Education and State Superintendent  
3 of Schools, pursuant to section five, article twenty, chapter  
4 eighteen of this code, respectively, may, as funds are available,  
5 establish an education program for those eligible offenders who are  
6 not recipients of a high school diploma or a certificate of high  
7 school equivalence. Businesses operating in the state are  
8 encouraged to participate in this work camp program to the extent  
9 of assisting inmates in their training in the work camp program and  
10 to obtain employment after successful completion of the work camp  
11 program.

12 (2) Upon successful completion of the work camp program, and  
13 notwithstanding any other provisions for determining parole  
14 eligibility, an inmate shall be released on parole in accordance  
15 with this article. Except as otherwise provided in this article,  
16 a release on parole under this section shall require that the  
17 eligible offender be under intensive supervision by the adult  
18 parole authority and may provide for supervision of the offender by  
19 the adult parole authority subsequent to the expiration of his or  
20 her period of work camp incarceration under any terms and for any  
21 period of time prescribed by the provisions of article twelve,  
22 chapter sixty-two of this code.

23 (b) The policies and procedures for the work camp program also  
24 shall include, but are not limited to, all of the following:

1           (1) Policies and procedures identifying the facilities under  
2 the control and authority of the division designated by the  
3 commissioner that will be used for prisoners serving a sentence to  
4 work camp;

5           (2) Policies and procedures governing academic education, or  
6 psychological testing and evaluation, discipline, job training  
7 skills, physical training and labor for eligible offenders serving  
8 a sentence to work camp based upon the offender's physical  
9 conditions and needs: *Provided*, That the education program shall  
10 be administered by the State Board of Education and State  
11 Superintendent of Schools in accordance with section thirteen-f,  
12 article two, chapter eighteen and section five, article twenty,  
13 chapter eighteen of this code, respectively and businesses  
14 operating in the state may participate in job training skills for  
15 employment following successful completion of the work camp  
16 program;

17           (3) Policies and procedures establishing additional criteria  
18 the commissioner considers necessary to determine the eligibility  
19 of offenders to serve their sentence as a sentence to work camp;

20           (4) Policies and procedures establishing a method of intensive  
21 supervision for an eligible offender who is released on parole of  
22 the type described in this section for the remainder of his or her  
23 parole sentence, and rules governing the supervision of the  
24 offender subsequent to the expiration of his or her parole

1 sentence;

2 (5) Policies and procedures to effectuate notification to  
3 sentencing courts of the performance of eligible offenders serving  
4 their sentence of imprisonment as a sentence to work camp;

5 (6) Policies and procedures establishing a program of work  
6 projects that include: Light construction, painting, grounds  
7 maintenance, mowing lawns, planting flowers, fence and trail  
8 building and snow removal; work projects may be contracted only to  
9 local, state, county and federal government agencies, and not  
10 private entities; and work projects may provide services to senior  
11 citizens, other special needs programs and community fundraisers or  
12 charity events; and

13 (7) Any other policies and procedures that are necessary for  
14 the proper operation of the program.

15 (c) An eligible offender who does not satisfactorily complete  
16 the entire period of work camp incarceration, shall be removed from  
17 the program of work camp and is required to serve the remainder of  
18 the original sentence of imprisonment which would have been  
19 available to the sentencing court had work camp not been directed  
20 by the circuit court or allowed by the commissioner.

21 (d) If the circuit court directs or the division permits an  
22 eligible offender to serve his or her sentence of imprisonment as  
23 a sentence to work camp, the eligible offender shall begin a period  
24 of parole of the type described in this article. If an eligible

1 offender violates the conditions of parole, he or she may be  
2 declared a parole violator and his or her parole is subject to  
3 revocation pursuant to the provision of article twelve, chapter  
4 sixty-two of this code.

5 **§25-6A-6. Reporting requirements; termination provisions;**  
6 **performance audit.**

7 (a) The commissioner shall keep sentencing courts informed of  
8 the performance of eligible offenders serving their sentences of  
9 imprisonment as a sentence to work camp, including, but not limited  
10 to, notice of eligible offenders who fail to satisfactorily  
11 complete their entire sentence to work camp or who satisfactorily  
12 complete their entire sentence to work camp.

13 (b) The Legislative Auditor shall conduct a performance audit  
14 of the work camp program five years after the effective date of the  
15 creation of the program. Upon completion, a report summarizing the  
16 performance audit shall be filed with the President of the Senate  
17 and the Speaker of the House of Delegates. The Legislature may  
18 terminate the program after the conclusion of the audit and receipt  
19 of the report. The report shall contain all of the following:

20 (1) A summary of the program as initially established, a  
21 summary of all changes in the program made during the period  
22 covered by the audit and the reasons for the changes, and a summary  
23 of the program as it exists on the date of the preparation of the  
24 audit;



1 (2) A summary of the effectiveness of the program;

2 (3) An analysis of the total cost of the program, of its cost  
3 per inmate who was permitted to serve a sentence to work camp and  
4 who served the entire sentence to work camp, and of its cost per  
5 inmate who was permitted to serve a sentence to work camp;

6 (4) A summary of the standards and criteria used by the  
7 division in determining which eligible offenders were permitted to  
8 serve their sentence of imprisonment as a sentence to work camp;

9 (5) A summary of the characteristics of the eligible offenders  
10 who were permitted to serve their sentence of imprisonment as a  
11 sentence to work camp, which summary shall include, but not be  
12 limited to, a listing of every offense of which any the eligible  
13 offender was convicted or to which the eligible offender pleaded  
14 guilty and in relation to which he or she served a sentence to work  
15 camp, and the total number of the eligible offenders who were  
16 convicted of or pleaded guilty to each offense;

17 (6) A listing of the number of eligible offenders who were  
18 permitted to serve a sentence to work camp and who did not serve  
19 the entire sentence to work camp, and, to the extent possible, a  
20 summary of the length of the terms of imprisonment served by those  
21 eligible offenders after they were removed from the program;

22 (7) A summary of the effect of the program on overcrowding at  
23 correctional facilities under the control and authority of the  
24 division;

1           (8) To the extent possible, an analysis of the rate of the  
2 recidivism of eligible offenders who were permitted to serve a  
3 sentence to work camp and who served the entire sentence to work  
4 camp; and

5           (9) Recommendations as to legislative changes to the program  
6 that would assist in its operation or that could further alleviate  
7 overcrowding at correctional facilities, and recommendations as to  
8 whether the program should be expanded.

9 **§25-6A-7. Liberal construction required.**

10           This article shall be liberally construed to accomplish the  
11 intent and purposes of the Legislature articulated in this article.

NOTE: The purpose of this bill is to authorize circuit courts to sentence nonviolent felony offenders to work camps. The bill establishes work camps, in conjunction with boot camps for that purpose.

This article is new; therefore, strike-throughs and underscoring have been omitted.