

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4338

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ELDRIDGE, ROBINSON, LOVEJOY, LANE, WILLIAMS, ISNER,
AND FOSTER

(BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY)

[Originating in the Committee on Finance;

February 23, 2018.]

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, §25-1-22, of the Code of West Virginia, 1931,
5 as amended; to repeal §28-5-7, §28-5-8a, §28-5-23, §28-5-24 and §28-5-27, of said code;
6 to repeal §31-20-1, §31-20-1a, §31-20-2, §31-20-3, §31-20-4, §31-20-5, §31-20-5a, §31-
7 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, §62-12-15 and §62-12-25 of
12 said code; to repeal §62-13-3, §62-13-4, §62-13-5 and §62-13-6a of said code; to amend
13 and reenact §6-7-2a of said code; to amend said code by adding thereto a new chapter,
14 designated §15A-1-1, §15A-1-2, §15A-1-3, §15A-1-4, §15A-1-5, §15A-2-1, §15A-2-2,
15 §15A-2-3, §15A-2-4, §15A-2-5, §15A-2-6, §15A-2-7, §15A-2-8, §15A-2-9, §15A-2-10,
16 §15A-2-11, §15A-2-12, §15A-2-13, §15A-2-14, §15A-2-15, §15A-2-16, §15A-2-17, §15A-
17 2-18, §15A-2-19, §15A-2-20, §15A-2-21, §15A-2-22, §15A-2-23, §15A-2-24, §15A-2-25,
18 §15A-2-26, §15A-2-27, §15A-2-28, §15A-2-29, §15A-2-30, §15A-2-31, §15A-2-32, §15A-
19 2-33, §15A-2-34, §15A-2-35, §15A-2-36, §15A-3-1, §15A-3-2, §15A-3-3, §15A-3-4, §15A-
20 3-5, §15A-3-6, §15A-3-7, §15A-4-1, §15A-4-2, §15A-4-3, §15A-4-4, §15A-4-5, §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 generally to
23 supervision of persons committed to the custody of the division of corrections, division of
24 juvenile services and the regional jail and correctional facility authority; consolidating
25 supervision authority of the division of corrections, division of juvenile services and the
26 regional jail and correctional facility authority; creating the Division of Administrative

27 Services and the Division of Corrections and Rehabilitation in the Department of Military
28 Affairs and Public Safety; transferring certain authority to the Division of Corrections and
29 Rehabilitation; abolishing certain divisions and authorities; setting forth legislative intent;
30 setting forth the institutions to be controlled by the Commissioner of Corrections and
31 Rehabilitation; establishing law enforcement powers; establishing employment criteria;
32 establishing rules for offenders and inmates; establishing certain funds and programs;
33 creating the Bureau of Prisons and Jails and setting forth its duties and responsibilities;
34 establishing the Bureau of Juvenile Services and setting forth its duties and
35 responsibilities; establishing the Bureau of Community Corrections and setting forth its
36 duties and responsibilities; creating the Regional Jail and Corrections Authority Board and
37 setting forth its duties and responsibilities; setting forth compensation; providing criminal
38 penalties; defining terms; and requiring rule-making.

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

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

33 Director, Board of Risk and Insurance Management, \$80,000; Director, Division of
34 Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director,

35 Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director,
36 Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute,
37 \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of
38 Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital
39 Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service
40 Commission, \$85,000; members, Public Service Commission, \$85,000; Director, Division of
41 Forestry, \$75,000; ~~Director, Division of Juvenile Services, \$80,000; Executive Director, Regional~~
42 ~~Jail and Correctional Facility Authority, \$80,000~~ and Executive Director of the Health Care
43 Authority, \$80,000.

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

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

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

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

§15A-1-2. Definitions.

1 As used in this article:

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

3 “Administrative services” means the fiscal services, payroll services, human resources
4 services, and procurement services.

5 “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 to perform the administrative services required for the Division of Corrections
3 and Administration created in §15A-2-1 et seq. of this code. The secretary may require that
4 administrative services for other agencies or boards administered by the Department of Military
5 Affairs and Public Safety as listed in §5F-2-1 of this code be provided by the Division of
6 Administrative Services: *Provided*, That the secretary may not require the administrative services
7 of the State Police, the West Virginia National Guard or the West Virginia Military Authority be
8 provided by the Division of Administrative Services. The secretary shall appoint a director for the

9 Division of Administrative Services who will serve at the will and pleasure of the secretary. The
10 director shall have extensive knowledge in the field of public safety and the principles and
11 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 the functions of the Division of
4 Administrative Services. The director shall also have the authority to employ assistants and
5 attorneys as may be necessary for the efficient operation of the Division of Administrative
6 Services. The director shall perform the duties herein specified and shall also perform other duties
7 as the secretary may prescribe.

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

1 (a) Persons employed on the effective date of this article by the Division of Juvenile
2 Services, the Regional Jail and Correctional Facility Authority or the Division of Corrections whose
3 current employment responsibilities include those to be provided by the Division of Administrative
4 Services are hereby assigned and transferred to the Division of Administrative Services.

5 (b) The consolidation of the administrative services of the Division of Juvenile Services,
6 Regional Jail and Correctional Facility Authority and the Division of Corrections into the Division
7 of Administrative Services shall in no way hinder any ongoing programs, benefits, litigation, or
8 grievance procedures.

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

11 (d) Nothing contained in this article shall be construed to preclude the reclassification or
12 reallocation of positions in accordance with procedures set forth in rules promulgated pursuant to
13 §29-6-10 of this code.

14 (e) Any person transferred to the Office of the Director of the Division of Administrative
15 Services who on the effective date of this article is a classified civil service employee shall, within
16 the limits contained in §29-6-1 et seq. of this code, remain in the civil service system as a covered
17 employee. Any person transferred to the Office of the Director of the Division of Administrative
18 Services who on the effective date of this article is a classified exempt civil service employee,
19 other than the Director, and his or her Deputy Directors, and one exempt assistant, shall, within
20 the limits contained in §29-6-1 et seq. of this code, be transferred into the civil service system as
21 a permanent covered employee, and is no longer exempt: *Provided*, That he or she has been
22 employed by the Division of Juvenile Services, Division of Corrections or the Regional Jail and
23 Correctional Facility Authority for at least six months prior to the effective date of this section.

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 (a) The Division of Corrections and Rehabilitation is hereby established within the
2 Department of Military Affairs and Public Safety.

3 (b) A Commissioner of the Division of Corrections and Rehabilitation shall be appointed
4 by the Governor, by and with the advice and consent of the Senate as provided in §6-7-2a of this
5 code.

6 (c) On July 1, 2018, the offices of Commissioner of Division of Corrections, Executive
7 Director of the Regional Jail and Correctional Facility Authority, and the Director of Juvenile
8 Services are hereby abolished. Except as otherwise provided in this chapter, the powers and
9 authority of these offices and their officers are transferred to the Division of Corrections and
10 Rehabilitation. Whenever in this code, reference is made to the Commissioner of the Division of
11 Corrections, the Executive Director of the Regional Jail and Correctional Facility Authority, or the
12 Director of the Division of Juvenile Services, it shall be construed to mean the Commissioner of
13 the Division of Corrections and Rehabilitation. Whenever in this code a reference is made to the
14 Division of Corrections or the Division of Juvenile Services, it shall be construed to mean the
15 Division of Corrections and Rehabilitation. The powers and authority of the Regional Jail and
16 Correctional Facility Authority Board, in relation to all functions of correctional operations, are
17 hereby transferred to the Commissioner of the Division of Corrections and Rehabilitation. The
18 Regional Jail and Correctional Facility Authority Board shall only retain the powers authorized in
19 §15A-6-1 et seq. of this code. Whenever in this code reference is made to the Regional Jail and
20 Correctional Facility Authority Board or the Executive Director of the Regional Jail and
21 Correctional Facility Authority, in relation to operations of any of the regional jails, it shall be
22 construed to mean the Commissioner of the Division of Corrections and Rehabilitation. All
23 legislative rules and policies of the Division of Corrections, the Regional Jail and Correctional
24 Facility Authority, and the Division of Juvenile Services shall remain effective until amended or
25 terminated pursuant to the provisions of §29A-3-1 et seq. by the Division of Correction and
26 Rehabilitation.

27 (d) The executive and administrative head of the Division of Correction and Rehabilitation
28 shall be the Commissioner appointed pursuant to subsection (b) of this section. The
29 Commissioner shall take and subscribe to the oath prescribed by the Constitution for public
30 officials and shall execute an official bond in a penalty of \$15,000, conditioned as required by law.
31 Premiums on the bond shall be paid from appropriations made for the commissioner's office. The

32 bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor
33 and, when fully executed and approved, shall be filed in the office of the Secretary of State.

34 (e) Nothing herein contained shall be construed to give the Commissioner of the Division
35 of Corrections and Rehabilitation any authority in the administration, management, or control of
36 mental institutions, previously transferred to the Department of Mental Health by an act of the
37 Legislature, regular session, 1957.

38 (f) Any person employed by the office of the Commissioner of the Division of Corrections
39 and Rehabilitation who on the effective date of this article is a classified civil service employee
40 shall, within the limits contained in §29-6-1 et seq. of this code, remain in the civil service system
41 as a covered 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 chapter 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 the Division of Corrections and Rehabilitation shall manage,
2 direct, control, and govern the jails, penal, or correctional institutions of this state, and the juvenile
3 facilities of this 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 the Division of Corrections and Rehabilitation may contract with
51 the county commission of McDowell County to house and incarcerate inmates at the Stevens
52 Correctional Center consistent with all requirements and standards governing the Division of
53 Corrections and Rehabilitation.

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

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

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

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

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

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

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

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

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

77 (g) The Division of Corrections and Rehabilitation shall provide the number of persons
78 placed in a half-way house or a transitional housing facility as authorized in this section in its
79 report made pursuant to §5-1-20 of this code, and shall describe its plans to use the authority
80 provided under the provisions of subsection (f) of this section in furtherance of the duties and
81 responsibilities imposed by this article.

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

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

97 (i) All juveniles placed in a facility under the jurisdiction of the Commissioner of the Division
98 of Corrections and Rehabilitation, shall be deemed to be placed in the custody of the
99 Commissioner of the Division of Corrections and Rehabilitation. The commissioner, or his or her

100 designee, has the authority to and may order the transfer of any juvenile to any appropriate
101 institution within the Division of Corrections and Rehabilitation.

**§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 Commissioner
5 and is directly connected with and required by the nature and in the performance of the official's
6 or designated employee's duties and responsibilities.

7 (b) The Corrections Special Operations Team is hereby established and shall consist of
8 the Corrections Emergency Response Team, the K9 unit, and the Crisis Negotiations team
9 created under the former division of corrections. The Corrections Special Operations Team
10 serves as the first responder necessary for the protection of life, liberty, and property. It shall
11 have limited law-enforcement authority regarding matters occurring at jails, correctional centers,
12 and juvenile centers, and arrest powers to apprehend escapees, absconders, and in all matters
13 arising on the grounds of a facility under the care and control of the Commissioner of the Division
14 of Corrections and Rehabilitation: *Provided*, That at any time the Corrections Special Operations
15 Team is apprehending an escapee or an absconder outside the confinement of the facility
16 grounds, it does so with the assistance and cooperation of local law enforcement or the West
17 Virginia State Police.

18 (c) The Commissioner shall issue a certificate authorizing any correctional employee who
19 has successfully completed the division's firearms training, as set forth by the Law Enforcement
20 Professional Standards Subcommittee to carry firearms while on duty.

21 (d) All employees of the Division of Corrections and Rehabilitation are responsible for
22 enforcing rules and laws necessary for the control and management of correctional units and the

23 maintenance of public safety that is within the scope of responsibilities of the Division of
24 Corrections and Rehabilitation.

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

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

29 (2) To conduct investigations regarding criminal activity occurring within a correctional
30 facility;

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

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

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

41 (g) Other than as outlined in this section, a correctional officer employed by the division is
42 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 §15A-2-3 of this code, and establish policies regarding the treatment of mentally ill inmates.

6 which reflect the safety and security concerns specific to jails and correctional facilities.
7 Notwithstanding any provisions of law to the contrary, the Division of Corrections and
8 Rehabilitation is not subject to the rules promulgated by the board of health for the treatment of
9 mentally ill patients nor the mandates developed pursuant to *E. H. v. Matin*.

§15A-2-6. 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 Rehabilitation, and a Bureau of Community Corrections, 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.

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

28 (b) The commissioner, in order to carry out the purposes and intent of this chapter, may:

29 (1) Appoint a Deputy Commissioner to assist in the day-to-day operations of the division;

30 (2) Employ professional and support staff, including, but not limited to, certified public
31 accountants, attorneys, assistants, and other employees as necessary for the efficient operation
32 of the division;

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

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

35 (5) Conduct examinations and investigations and to hear testimony and take proof, under
36 oath or affirmation;

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

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

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

44 (9) Make rules for the management and regulation of the affairs of the division pursuant
45 to §29A-3-1 et seq. of this code;

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

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

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

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

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

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

14 those of other state employees and agencies and on a payment schedule set forth by the State
15 Auditor.

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

1 (a) The commissioner shall prescribe the design, or designs, of uniforms used by
2 employees of the division, which shall be dissimilar to the design of the uniform worn by the
3 members of the State Police or the established statewide uniform of a sheriff or deputy sheriffs.
4 A municipality shall not adopt for its police officers or other employees a uniform which is similar
5 in design to the uniform adopted by the commissioner.

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

10 (c) No person who is not an officer or employee of the Division of Corrections and
11 Rehabilitation may falsely represent himself or herself to be an officer or employee of the Division
12 of Corrections and Rehabilitation or to be under the order or direction of any officer or employee
13 of the division.

14 (d) No person employed as an officer or employee of the Division of Corrections and
15 Rehabilitation may use his or her position as such to threaten or coerce any other person in order
16 to receive any favoritism, employment, or thing of favor by virtue of his or her employment with
17 the division: *Provided*, That this subsection does not apply to violations of the Prison Rape
18 Elimination Act.

19 (e) Any person who violates the provisions of subsection (b), (c), or (d) of this section is
20 guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$200, or
21 confined in 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 §29A-3-1 *et seq.* of this code, or policy
5 directives, promulgated by the commissioner.

6 (b) The commissioner, or his or her designee, is authorized to establish under legislative
7 rules, pursuant to §29A-3-1 *et seq.* of this code, or policy directives, promulgated by the
8 commissioner, a furlough program for pretrial and misdemeanor inmates under his or her control
9 and custody 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 legislative rule promulgated by
4 the Commissioner pursuant to §2-A-3-1 et seq. of this code, to help defray the costs of the
5 purchase and use of the equipment and the division's operational costs: *Provided*, That an
6 offender's inability to pay a fee does not preclude the offender from being 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 as required by §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 may 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 persons in the physical custody of
38 the 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 the Division of Corrections and Rehabilitation, or his or her
2 designee, is authorized to monitor, open, review, copy, and disclose mail sent to 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 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 as required by §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 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 as required by §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
5 superintendent of the institution, or other person who may have been appointed for the purpose
6 by the Commissioner of Corrections and Rehabilitation, shall make and certify to the Auditor at
7 the end of each month a list of persons to whom any payments may be due, stating for what
8 purpose due, the amount due each person, and the fund or appropriation from which payable;
9 one copy whereof shall be filed in the office of the institution where made, and one in the office of
10 the Commissioner of Corrections and Rehabilitation. If the Auditor finds the list correct and in
11 accordance with the reports made to him or her by the Commissioner of Corrections and
12 Rehabilitation, he or she may pay to the persons entitled thereto the amounts so certified as due
13 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 the Division of Corrections and Rehabilitation shall, prior to the
31 beginning of each fiscal year, prepare a report that details the average cost per inmate incurred
32 by the division 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
40 superintendent 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 an institution, the commissioner may establish the account for that institution. Moneys
8 received by an institution for deposit in an inmate benefit fund shall be deposited with the State
9 Treasurer to be credited to the special revenue account created for the institution's inmate benefit
10 fund: *Provided*, That commissions on any contract providing services to jail inmates shall not be
11 deposited into this account. Moneys in a special revenue account established for an inmate
12 benefit fund may be expended by the institution for the purposes set forth in this section. Moneys
13 to be deposited into an inmate benefit fund consist of, but are not limited to:

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

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

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

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

21 (5) Any funds confiscated considered contraband; and

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

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

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

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

27 (3) Cable television service;

28 (4) Rental of video cassettes;

29 (5) Payment of video license;

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

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

33 (8) Post-secondary education classes;

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

35 (10) Household equipment and supplies in day rooms or units as approved by
36 superintendents of institutions, excluding supplies used in the daily maintenance and sanitation
37 of the unit;

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

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

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

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

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

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

51 (d) The institution shall compile a monthly report that specifically documents inmate benefit
52 fund receipts and expenditures and a yearly report for the previous fiscal year by September 1 of
53 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,
21 not to exceed 50 percent in the aggregate, for any court ordered victim restitution, court fees and
22 child support obligations owed under a support order, including an administrative fee, consistent
23 with the provisions of §48-14-406(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, through the West Virginia
40 Municipal Bond Commission, in short term bonds or treasury certificates or equivalent of the
41 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 superintendent 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 Services 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 the Division of Corrections and
3 Rehabilitation is custodian of all deeds and other muniments of title and shall cause such as are
4 susceptible of recordation to be recorded in the proper offices. The commissioner is authorized,
5 as lessor, to lease the West Virginia penitentiary in Moundsville, title to which is vested in the
6 state by prior enactment of this article, for a term of not more than five years: *Provided,* That this
7 section does not affect any lease in effect as of the effective date of this section. Any agreement
8 entered into under this section shall be with the consent and approval of the Secretary of the
9 Department of Military Affairs and Public Safety, and shall include a provision within each
10 agreement allowing for the immediate termination by the secretary 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. No inmate may be denied any necessary
19 billable medical service because of inability to pay the charge.

20 (c) Any inmate who intentionally ingests, inhales, injects, absorbs, applies, or otherwise
21 exposes himself or herself to, in any manner whatsoever not otherwise specified herein, an illegal
22 drug, a drug not legally prescribed to him or her, a drug in quantities above that recommended by
23 a prescribing physician, a synthetic intoxicant, or any substance for the purpose of causing an
24 excited, euphoric, or stupefied state, or altered perception, including hallucinations or delusions,

25 and the inmate requires medical treatment due to the ingestion, inhalation, injection, absorption,
26 application, or exposure shall reimburse the cost of the medical treatment to the division.

27 (d) Each inmate shall be afforded an opportunity at least quarterly to review all deposits
28 into, withdrawals from, and balance remaining in the inmate's trustee account during the
29 preceding three months.

30 (e) The commissioner shall promulgate interpretive rules implementing this section
31 pursuant to §29A-3-1 et seq. of this code prior to making any assessment under this section. The
32 policy directive rules may establish the fee schedule and list of billable services and further define
33 services to be exempted.

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

1 The Commissioner of the Division of Corrections and Rehabilitation shall appoint a
2 Superintendent for each institution under the control of the Division of Corrections and
3 Rehabilitation. The Commissioner of the Division of Corrections and Rehabilitation, or his or her
4 designee, has the authority to manage and administer the finances, business, operations,
5 security, and personnel affairs of correctional units under the jurisdiction of the Division of
6 Corrections and Rehabilitation. All persons employed at a state-operated correctional institution
7 or correctional unit are subject to the supervision and approval of the Superintendent and the
8 authority of the Commissioner of Corrections and Rehabilitation, or his or her designee, except
9 those persons employed by the 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
3 Commissioner of the Division of Corrections and Rehabilitation is hereby authorized and
4 empowered on behalf of the state, to establish and operate a plant for the manufacture of the
5 license plates and 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 any 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 any institution as
9 a contractor, 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 any institution as a contractor, agent,
8 or employee.

§15A-2-30. Deduction from sentence for good conduct for inmates convicted and
sentenced on felonies or misdemeanants 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 of the
29 institution in which the violation occurred. The superintendent when appropriate and with approval
30 of the commissioner, may restore any forfeited good time.

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

36 (h) Each inmate shall be given a revision of the statement described in subsection (g) of
37 this section when any part or all of the good time has been forfeited and revoked or restored

38 pursuant to subsection (f) of this section, by which the time of his or her earliest discharge is
39 changed.

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

42 (j) There shall be no grants or accumulations of good time or credit to any current or future
43 inmate serving a sentence in the custody of the Division of Corrections and Rehabilitation except
44 in the manner provided in this section.

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

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

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

64 (n) As used in this section, “felony crime of violence against the person” means felony
65 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
66 this code, and the felony offenses of arson and burglary of a residence where an individual is
67 physically located at the time of the offense as set forth in §61-3-1 et seq. of this code.

68 (o) As used in this section, “felony offense where the victim was a minor child” means any
69 felony crime of violence against the person and any felony offense set forth in §61-8-1 et seq.,
70 §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 the Division of Corrections and
5 Rehabilitation to consent to the transfer or exchange of inmates in his or her custody and take
6 any other action necessary to initiate the participation of this state in the treaty. No transfer may
7 occur pursuant to the provisions of this section until the inmate is informed of his or her rights and
8 the procedures involved in his or her native language unless it is determined that the inmate’s
9 knowledge of 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 superintendent of the facility. The facts may be presented by a correctional officer, member
13 of a correctional institution medical staff, relative, or the convicted person. Immediately upon
14 receipt of the facts, the superintendent shall arrange for psychiatric or psychological examination
15 of the person alleged to be so afflicted. If the report of the examination is to the effect that the
16 individual is mentally ill, intellectually disabled, or addicted and that treatment, training, or other
17 services are required which cannot reasonably be provided at the correctional facility, the
18 superintendent shall file within 20 days after presentation of the facts an application for transfer
19 with the clerk of the circuit court of the county of location of the correctional facility. The application
20 for transfer shall include a statement of the nature of the treatment which the person's condition
21 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 §5A-3-1 et seq. of this code do not apply to the Division
2 of 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 \$2,500, and less than
6 \$25,000, the division shall solicit at least three bids, if possible from vendors and make a written
7 contract with the lowest responsible bidder. When the cost under any contract or agreement
8 entered into by the division, other than compensation for personal services, involves an
9 expenditure of \$25,000 or more, the division shall make a written contract with the lowest
10 responsible bidder after public notice published as a Class II legal advertisement in compliance
11 with the provisions of §59-3-1 et seq. of this code, the publication area for the publication to be
12 the county or counties wherein the work is to be performed or which is affected by the contract,
13 which notice shall state the general character of the work and general character of the materials
14 to be furnished, the place where plans and specifications therefor may be examined and the time
15 and place of receiving bids. But a contract for lease of a correctional facility is not subject to the
16 foregoing requirements and the division may enter into the contract for lease pursuant to

17 negotiation upon the terms and conditions and for the period as it finds to be reasonable and
18 proper under the circumstances and in the best interests of proper operation or efficient
19 acquisition or construction of the projects. The division may reject any and all bids. A bond with
20 good and sufficient surety, approved by the division, shall be required of all contractors in an
21 amount equal to at least fifty percent of the contract price, conditioned upon faithful performance
22 of the contract.

23 (c) If the division has to make a purchase under emergency conditions, or an emergency
24 situation, which jeopardizes the safe, secure, and orderly operations of the division, as deemed
25 by the Commissioner, and approved by the Secretary, subsections (a) and (b) shall not apply.

26 (d) The commissioner may enter into agreements with medical schools and institutions of
27 higher education in this state to provide for the medical care for inmates and residents in his or
28 her custody.

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

1 (a) Any special revenue funds previously administered by the Regional Jail and
2 Correctional Facility Authority or its Executive Director, are continued, and are to be administered
3 by the Commissioner of the Division of Corrections and Rehabilitation.

4 (b) Funds previously held by jails that have been transferred by subsection (a) of this
5 section shall be limited in use to operations of jail functions, and for payment to the Regional Jail
6 Correctional Facility Authority Board for payment of indebtedness. In no case shall a fund be
7 utilized to offset or pay operations of nonjail parts of the facility: *Provided*, That funds may be
8 utilized on a pro rata share for shared staff, and operational expenses of facilities being used as
9 both prisons and jails.

10 (c) Whenever the commissioner determines that the balance in these funds is more than
11 the immediate requirements of this article, he or she may request that the excess be invested
12 until needed. In this case, the excess shall be invested in a manner consistent with the investment

13 of temporary state funds. Interest earned on any money invested pursuant to this section shall be
14 credited to these funds.

15 (d) These funds consist of the following:

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

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

20 (3) All sums paid pursuant to subsection (g) of this section; and

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

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

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

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

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

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

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

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

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

49 (A) Detain persons who have been arrested or charged with a crime, in a county or
50 municipal jail, specified as appropriate under the standards and procedures referenced in
51 subdivision (1) of this subsection, for a period not to exceed 96 hours; or

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

55 (g) When inmates are placed in a jail facility under the jurisdiction of the commissioner
56 pursuant to subsection (f) of this section, the county, and municipality if the incarceration is a
57 municipal violation, shall pay into this fund a cost per day for each incarcerated inmate to be
58 determined by the state Budget Office, by examining the most recent three years of costs
59 submitted by the Commissioner of the Division of Corrections and Rehabilitation for the cost of
60 operating the jail facilities and units under his or her jurisdiction, and taking an average per day,
61 per inmate cost of maintaining the operations of the jail facilities or units: *Provided*, That beginning
62 July 1, 2018, and continuing through July 1, 2021, in no case, shall any county or municipality be
63 required to pay a rate that exceeds \$48.25 per day, per inmate. Nothing in this section shall be

64 construed to mean that the per diem cannot be decreased, or be less than \$48.25 per day per
65 inmate.

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

73 (h) The county is responsible for costs incurred by the division for housing and maintaining
74 inmates in its facilities who are pretrial inmates and convicted misdemeanants. The costs of
75 housing shall be borne by the Division of Corrections and Rehabilitation on a felony conviction on
76 which an inmate is incarcerated beginning the calendar day following the day of conviction. In no
77 case shall the county be responsible for any costs of housing and maintaining felony convicted
78 inmate populations.

79 (i) The county is responsible for the costs incurred by the authority for housing and
80 maintaining inmates who, prior to a felony conviction on which the inmate is incarcerated and is
81 awaiting transportation to a state correctional facility for a sixty-day evaluation period as provided
82 in §62-12-7 of this code.

83 (j) On or before July 1, 2020, the Commissioner shall prepare a report on the feasibility
84 of the phasing out the county and municipal per diem charges required by subsection (g) of this
85 section. This report shall include information regarding savings realized because of the
86 consolidation of the division of corrections, division of juvenile services and the regional jail and
87 correctional facility authority and any other recommendations that might ease the burden of
88 paying the per diem inmate costs by the counties or municipalities. On or before January 1, 2019,
89 January 1, 2020 and January 1, 2021, the Commissioner shall report to the Joint Committee on

90 Government and Finance and the Chairmen of the Joint Standing Committee on Finance the
91 actual per diem rate as calculated pursuant to subsection (g) of this section and any amount not
92 assessed to counties if the actual per diem cost is larger than the amount charged to the counties
93 or municipalities pursuant to subsection (g) between July 1, 2018 and July 1, 2021.

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

1 (a) There is continued in the State Treasury the Jail Operations Partial Reimbursement
2 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: *Provided, however, That the pro rata share formula shall not include the counties**
17 *or municipalities which are not entitled to reimbursement pursuant to this section.*

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 institution a work program for
2 qualified 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 be required
7 to make reimbursement to the division toward the cost of his or her incarceration to be credited
8 to the agency billed for that incarceration, pursuant to the conditions set forth in §15A-2-18 of this
9 code.

10 (c) Notwithstanding any provision of this code to the contrary, the county commission, its
11 members and agents, the Division of Corrections and Rehabilitation or designee, its employees,
12 agents, or assigns, the Regional Jail and Correctional Facility Authority Board, its members,
13 agents, or assigns, the sheriff, and his or her deputies, shall be immune from all liability of any
14 kind except for 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 in
2 §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 §29-6-1 et seq. of this code, remain in the civil
10 service 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 manage 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 §49-1-1 et seq. of this code, are hereby transferred and
3 conveyed to the Division of Corrections and Rehabilitation, and to its Commissioner. Any funds
4 administered by the Division of Juvenile Services are to be administered by the Division of
5 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 juvenile inmates, to prevent escapes, and carry out
5 all other responsibilities as outlined in §49-1-1 et seq. of this code. All of these employees shall
6 be under the control of the superintendent. Any person employed by the office of the
7 Commissioner of the Division of Corrections and Rehabilitation who on the effective date of this
8 article is a classified civil service employee shall, within the limits contained in §29-6-1 et seq. of
9 this code, remain in the civil service system as a covered employee.

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 manage 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 this
3 code, hire all assistants and employees required for the management of these facilities or units,
4 including a sufficient number of correctional employees to preserve order and enforce discipline
5 among the inmates or parolees, to prevent escapes, to enforce laws, rules, and policies, and to
6 protect the public. Any person employed by the office of the Commissioner of the Division of
7 Corrections and Rehabilitation who on the effective date of this article is a classified civil service
8 employee shall, within the limits contained in §29-6-1 et seq. of this code, remain in the civil
9 service 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 §29-6-1 et seq. of this code, remain in the civil
18 service system as a covered employee. Nothing in this section shall limit the abilities of the
19 Supreme Court of Appeals of this state to carry forth their responsibilities and duties as proscribed
20 in this code. All persons appointed or employed by the director shall be paid all necessary
21 expenses 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 Bureau of Community Corrections and the Parole Board to reduce release delays due to lack of
10 a home plan, develop community housing resources, and provide short-term loans to released
11 inmates for costs related 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 the Division of Corrections and Rehabilitation shall supervise all
2 persons released on parole and placed in the charge of a state parole officer and all persons
3 released on parole under any law of this state. He or she shall also supervise all probationers and
4 parolees whose supervision may have been undertaken by this state by reason of any interstate
5 compact entered into pursuant to the uniform act for out-of-state probation and parolee
6 supervision. The commissioner shall prescribe rules for the supervision of probationers and
7 parolees under his or her supervision and control, and shall succeed to all administrative and
8 supervisory powers of the Parole Board and the authority of the Parole Board in those matters
9 only.

10 The Commissioner of the Division of Corrections and Rehabilitation shall administer all
11 other laws affecting the custody, control, treatment, and employment of persons sentenced or

12 committed to institutions under the supervision of the department or affecting the operation and
13 administration of institutions or functions of the division.

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 §62-12-1 et seq. of this code shall remain within the exclusive jurisdiction of the
17 Parole Board.

§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 any correctional employee under W.Va. Code §15A-2-4(c), to carry firearms or concealed
38 weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation
39 may, without a state license, carry firearms and concealed weapons. Each state parole officer,
40 authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a
41 certificate authorizing him or her to carry a firearm or concealed weapon bearing the official
42 signature of the Commissioner of Corrections and 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-7-701 et seq. of this
7 code.

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

ARTICLE 6. REGIONAL JAIL AND CORRECTIONAL FACILITY 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 as of July 1, 2018. The
5 Regional Jail and Correctional Facility Authority Board shall only retain the powers as now
6 outlined in this chapter. Whenever, in this code, reference is made to the Regional Jail and
7 Correctional Facility Authority, in relation to operations of any of the regional jails, it shall be
8 construed to mean the Division of 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;

15 (C) To sell, at public or private sale, any bond or other negotiable instrument, security
16 interest or obligation of the authority in a manner and upon terms that the authority considers
17 would best serve the purposes of this article;

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

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

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

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

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

38 (G) To sell security interests in the loan portfolio of the authority. The security interests
39 shall be evidenced by instruments issued by the authority.

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

60 (4) The Regional Jail Authority shall review the per diem cost set by the state Budget
61 Office, pursuant to §15A-2-35 of this code. If the authority believes that the amount set by the
62 state Budget Office is incorrect, or that the amounts submitted by the Division of Corrections and
63 Rehabilitation include more than what should be attributed to the efficient operation of jail facilities

64 and units, the authority may institute an action in regard to this pursuant to §29A-1-1 et seq. of
65 this code.

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

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

1 The West Virginia Regional Jail and Correctional Facility Authority Board is continued.
2 The members of the board in office on the date this section takes effect shall, unless sooner
3 removed, continue to serve until their respective terms expire and until their successors have
4 been 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; two
10 county commissioners and one sheriff appointed by the Governor, no more than two of which may
11 be of the same political party; and two citizens appointed by the Governor to represent the areas
12 of law and medicine. The Commissioner of the Division of Corrections and Rehabilitation and the
13 Assistant Commissioner for the Bureau of Juvenile Services shall serve in an advisory capacity
14 and are not entitled to vote on matters coming before the authority. Members of the Legislature
15 are not eligible 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 chair and a secretary
4 from among its own members. The Secretary of the Department of Administration or his or her
5 designated representative shall serve as treasurer of the board. The board shall otherwise meet
6 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~~ §29-1-1 et seq. of this code,
69 rules and regulations relating to the powers and duties of the commission as enumerated in this
70 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 provided for services outside division facilities.

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 Public Institutions 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. Correctional officers; regional jails; priority of hiring.

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.]

§62-12-25. Parole supervision benefit fund.

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.]