



STATE OF WEST VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY
DIVISION OF CORRECTIONS



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June 29, 1998

The Honorable Ken Hechler
Secretary of State
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, WV 25305

RE: Title 95, Series 2
HB 4702

Dear Mr. Hechler:

During the 1998 legislative session, legislators passed HB 4702 which revised sections of the WV Code dealing with the Regional Jail and Correctional Facility Authority. The section which outlines the Jail and Corrections Facility Standards Commission, 31-20-8, removed correctional facilities from these regulations. This, in effect, repealed Title 95, Series 2, minimum standards for construction, operation and maintenance of correctional facilities and removed the responsibility for regulating correctional facility standards from the Standards Commission.

For your information, the reason for this repeal was that the state standards for correctional facilities were developed years ago according to national guidelines. Since that time, the American Correctional Association has enacted numerous revisions in the national standards for construction, operation and maintenance of correctional facilities and thus have become much more conservative. Unfortunately the state standards were never revised accordingly, and now far exceed many of the national standards. A number of members of the Commission have resigned, and new appointments were never made. There are currently only three appointed members.

Another reason Title 95, Series 2 was repealed is that our state is now spending a fortune fighting litigation whereby inmates have informed the courts that the WV Division of Corrections is not meeting state standards outlined in Title 95, Series 2. To outline the significance of this problem, I offer two examples: (1) cell space in the state standards exceeds that of national standards, hence it cost more to build correctional facilities under the state standards, and (2) state standards

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mandate that maximum security disciplinary segregation inmates must have one hour "outdoor" recreation time each day, and the national standard indicates the amount of exchange of light that defines recreation space for disciplinary segregation inmates. Our new state-of-the-art maximum security facility was designed and constructed according to the updated national standards, yet it does not meet Title 95, Series 2 standards.

Additionally, the WV Division of Corrections is legally committed by the WV Supreme Court to design and develop operational procedures for correctional facilities according to the American Correctional Association (national) standards.

Upon advice from legal counsel, I am hereby notifying you it is our interpretation that Title 95, Series 2 was in essence repealed by HB 4702, and I request that you have this clerically removed from the WV Code of State Regulations.

In advance, I thank you.

Respectfully submitted,


William K. Davis, Commissioner

Enclosure: HB 4702, Code Section 31-20-8

cc: Legislative Rule Review Committee, Chair Mike Ross, Senator
Legislative Rule Review Committee, Co-Chair Mark Hunt, Delegate
Deborah Graham, Counsel for Legislative Rule Review Committee
Steve Canterbury, Director WV Regional Jail and Correctional Facility Authority
Otis G. Cox, Cabinet Secretary, Dept. Of Military Affairs and Public Safety
Patrick Kelly, General Counsel, Office of the Governor
Vernon Barley, Chairman, Standards Commission and County Commissioner
Travis Grimmatt, Sheriff and Standards Commission Member
Quellen M. Keith, County Commissioner and Standards Commission Member