

H. B. 4614

(By Delegates Armstead and Anderson)

[Introduced February 17, 2014; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §61-14-1, §61-14-2,
§61-14-3 and §61-14-4, all relating to establishing the West
Virginia Sentencing Commission; legislative findings;
membership of the commission; appointment, terms and
qualifications of members; establishing objectives for the
commission; and setting forth certain powers and duties of the
commission.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new article, designated §61-14-1, §61-14-2,
§61-14-3 and §61-14-4, all to read as follows:

ARTICLE 14. WEST VIRGINIA SENTENCING COMMISSION.

§61-14-1. Legislative findings.

1 The Legislature hereby finds and declares that:

2 (a) There is a need for fair and uniform sentencing;

3 (b) There is a need for research on issues regarding
4 sentencing in order to promote a fuller understanding of the
5 efficient, just and fair operation of this state's criminal justice
6 system;

7 (c) There is a need for establishing guidelines and
8 priorities with regard to the severity of the criminal offenses;

9 (d) There is a need to utilize the limited correctional
10 resources in a manner best able to fulfill the goals of criminal
11 punishment, rehabilitation and protection of the public.

12 **§61-14-2. West Virginia Sentencing Commission created; appointment**
13 **of members.**

14 (a) There is hereby created the West Virginia Sentencing
15 Commission.

16 (b) The commission consists of the following members, who shall
17 serve without compensation:

18 (1) Two members of the West Virginia House of Delegates, to be
19 appointed by the Speaker of the House;

20 (2) Two members of the West Virginia Senate, to be appointed by
21 the President of the Senate;

22 (3) Seven members who are current or retired circuit judges,
23 magistrates or municipal court judges, to be appointed to their
24 membership on this commission by the Governor;

1 (4) Two members that are citizens of the State of West
2 Virginia, with no required prerequisite other than citizenship in
3 this state, to be appointed by the Governor;

4 (5) Two members who are current or former prosecuting attorneys
5 in this state to be appointed to their membership on this
6 commission by the Governor; and

7 (6) The presiding Chief Justice of the West Virginia Supreme
8 Court of Appeals, who shall serve as an ex officio member.

9 (c) Each member shall serve a two-year term, with the exception
10 of the ex officio members who shall serve as long as they shall
11 hold their respective offices.

12 (d) The chairperson of this commission shall be elected by the
13 members of the commission.

14 (e) Nine members of the commission constitute a quorum.

15 (f) The Governor's Committee on Crime, Delinquency and
16 Correction shall provide administrative services and assistance to
17 the commission.

18 **§61-14-3. Objectives of the commission.**

19 The sentencing commission shall pursue the following
20 objectives:

21 (a) Promoting sentencing that more accurately reflects the time
22 that an offender will actually be incarcerated;

23 (b) Reducing unwarranted disparity in sentences for offenders
24 who have committed similar offenses and have similar criminal

1 histories;

2 (c) Preserving meaningful judicial discretion in the imposition
3 of sentences and sufficient flexibility to permit individualized
4 sentences;

5 (d) Ensuring that sentencing judges in every jurisdiction in
6 the state are able to impose the most appropriate criminal
7 penalties including correctional options programs for appropriate
8 nonviolent offenders; and

9 (e) Determining whether the state needs to set out all criminal
10 offenses in terms of priority in order of severity and harm to
11 society and to provide alternatives to incarceration for certain
12 offenses.

13 **§61-14-4. Powers and duties of the commission.**

14 The sentencing commission established pursuant to this article
15 has the following powers and duties:

16 (a) The commission shall establish general policies and propose
17 rules for legislative approval in accordance with article three,
18 chapter twenty-nine-a of this code as are necessary to carry out
19 the purposes of this article;

20 (b) The commission may request such information, data and
21 reports from any officer or agency of the state as the commission
22 may from time to time require and as may be produced consistent
23 with other law;

24 (c) The commission may issue invitations requesting the

1 attendance and testimony of witnesses and the production of any
2 evidence that relates directly to a matter with respect to which
3 the commission or any member thereof is empowered to make a
4 determination under this article;

5 (d) The commission shall establish a research and development
6 program within the commission for the purpose of:

7 (1) Serving as a clearinghouse and information center for the
8 collection, preparation and dissemination of information on
9 sentencing practices;

10 (2) Assisting and serving in a consulting capacity to state
11 courts, departments and agencies in the development, maintenance
12 and coordination of sound sentencing practices;

13 (e) The commission shall collect data obtained from studies,
14 research and the empirical experience of public and private
15 agencies concerning the sentencing processes;

16 (f) The commission shall publish data concerning the sentencing
17 process;

18 (g) The commission shall collect and disseminate information
19 concerning sentences actually imposed;

20 (h) The commission shall, collect and disseminate information
21 regarding effectiveness of sentences imposed;

22 (i) The commission shall make recommendations to the
23 Legislature concerning modification or enactment of sentencing and
24 correctional statutes which the commission finds to be necessary

1 and advisable to carry out an effective, humane and rational
2 sentencing policy;

3 (j) The commission shall establish a plan and timetable to
4 collect and disseminate information relating to incapacitation,
5 recidivism, deterrence and overall effectiveness of sentences
6 imposed;

7 (k) The commission shall evaluate the state's sentencing and
8 correctional laws and policies and make recommendations to the
9 Governor and the Legislature on or before January 1, 2015, and at
10 its discretion thereafter or at the request of the President of the
11 Senate or the Speaker of the House of Delegates, regarding the
12 following issues:

13 (1) Whether the state should adopt guided discretion sentencing
14 guidelines and, if so, what type of guided discretion sentencing
15 guidelines should be adopted;

16 (2) Whether the state should alter the manner in which an
17 inmate may obtain credit for good time served or release on
18 mandatory supervision;

19 (3) Whether the state needs to take action to ensure that there
20 is a coordinated system of correctional options to incarceration at
21 the state and county levels and, if so, what action should be
22 taken; and

23 (4) Any other matters relating to state and local laws and
24 policies governing sentencing, parole, mandatory supervision and

1 correctional options programs.

NOTE: The purpose of this bill is to establish the West Virginia Sentencing Commission. The bill provides for the appointment, terms and qualifications of members; establishes objectives for the commission; and sets forth certain powers and duties of the commission.

Article §61-14-1 et seq. is new; therefore, the entire article is underscored.