

**H. B. 2849**

(By Mr. Speaker, (Mr. Armstead), Miller, Walters and Hanshaw)

[Introduced February 20, 2015; referred to the

Committee on the Judiciary.]

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 creating the West Virginia Sentencing 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. Creation of sentencing commission; how members are appointed; no compensation for service of members; terms of office for members; quorum; how chairperson elected; executive director.**

(a) There is created a West Virginia Sentencing Commission.

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

(1) Two members are from the West Virginia House of Delegates, to be appointed by the

1 Speaker of the House of Delegates;

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

4 (3) Seven members who are current or retired circuit judges, magistrates or municipal court  
5 judges, to be appointed by the Governor;

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

8 (5) The presiding Chief Justice of the West Virginia Supreme Court of Appeals, who serves  
9 as an ex officio member.

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

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

14 (e) Seven members of the commission is a quorum.

15 (f) The commission shall elect one of its members to serve as the Executive Director of the  
16 Commission and provide administrative services to the commission.

17 **§61-14-2. Purpose of commission.**

18 The Legislature finds and declares that:

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

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

22 (3) There is a need for establishing priorities with regard to the severity of the criminal

1 offenses; and

2 (4) There is a need to use the limited correctional resources in a manner best able to fulfill  
3 the goals of criminal punishment, rehabilitation and protection of the public.

4 **§61-14-3. Objectives of the commission.**

5 The Sentencing Commission shall pursue the following objectives:

6 (1) Promoting sentencing that more accurately reflects the time that an offender will actually  
7 be incarcerated;

8 (2) Reducing unwarranted disparity in sentences for offenders who have committed similar  
9 offenses and have similar criminal histories;

10 (3) Preserving meaningful judicial discretion in the imposition of sentences and sufficient  
11 flexibility to permit individualized sentences;

12 (4) Ensuring that sentencing judges in every jurisdiction in the state are able to impose the  
13 most appropriate criminal penalties including correctional options programs for appropriate  
14 nonviolent offenders; and

15 (5) Determining whether the state needs to set out all criminal offenses in terms of priority  
16 in order of severity and harm to society and to provide alternatives to incarceration for certain  
17 offenses.

18 **§61-14-4. Powers and duties of the commission.**

19 The Sentencing Commission established pursuant to this article has the following powers and  
20 duties:

21 (1) The commission shall establish general policies and propose rules for legislative approval  
22 in accordance with article three, chapter twenty-nine-a of this code as are necessary to carry out the

1 purposes of this article;

2 (2) The commission may request information, data and reports from any officer or agency  
3 of the state government, as the commission may from time to time require and as may be produced  
4 consistent with other law;

5 (3) The commission may issue invitations requesting the attendance and testimony of  
6 witnesses and the production of any evidence that relates directly to a matter with respect to which  
7 the commission or any member thereof is empowered to make a determination under this article;

8 (4) The commission shall establish a research and development program within the  
9 commission for the purpose of:

10 (A) Serving as a clearinghouse and information center for the collection, preparation and  
11 dissemination of information on sentencing practices; and

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

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

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

17 (7) The commission shall collect and disseminate information concerning sentences actually  
18 imposed;

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

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

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

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

5 (11) The commission shall evaluate the state's sentencing and correctional laws and policies  
6 and make recommendations to the Governor and the Legislature on or before January 1, 2016, and  
7 at its discretion after that or at the request of the President of the Senate or the Speaker of the House  
8 of Delegates, regarding the following issues:

9 (A) Whether the state should adopt guided discretion sentencing guidelines and, if so, what  
10 type of guided discretion sentencing guidelines should be adopted;

11 (B) Whether the state should alter the manner in which an inmate may obtain credit for good  
12 time served or released on mandatory supervision;

13 (C) Whether the state needs to take action to ensure that there is a coordinated system of  
14 correctional options to incarceration at the state and county levels and, if so, what action should be  
15 taken; and

16 (D) Any other matters relating to state and local laws and policies governing sentencing,  
17 parole, mandatory supervision and correctional options programs.

NOTE: The purpose of this bill is to create the West Virginia Sentencing Commission.

This section is new; therefore, it has been completely underscored.