

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2975**

BY DELEGATES MILLER AND D. KELLY

[Introduced February 11, 2019; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §61-8B-10 of the Code of West Virginia, 1931, as amended, relating  
 2 to imposition of sexual acts on persons incarcerated or under supervision by providing for  
 3 prohibition against sexual acts for any person working at a correctional facility; and  
 4 providing for prohibition against sexual acts for any person working at a day report facility.

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

**ARTICLE 8B. SEXUAL OFFENSES.**

**§61-8B-10. Imposition of sexual acts on persons incarcerated or under supervision;  
 penalties.**

1 (a) Any person employed by the Division of Corrections and Rehabilitation, any person  
 2 working at a correctional facility managed by the Commissioner of Corrections and Rehabilitation  
 3 pursuant to contract or as an employee of a state agency ~~any person working at a correctional~~  
 4 ~~facility managed by the Division of Juvenile Services pursuant to contract or as an employee of a~~  
 5 ~~state agency, any person employed by a jail or by the Regional Jail and Correctional Facility~~  
 6 ~~Authority, any person working at a facility managed by the Regional Jail and Correctional Facility~~  
 7 ~~Authority or a jail~~ or any person employed by, or acting pursuant to, the authority of any sheriff,  
 8 county commission or court to ensure compliance with the provisions of §62-11B-1 *et seq* of this  
 9 code who engages in sexual intercourse, sexual intrusion or sexual contact with a person who is  
 10 incarcerated in this state is guilty of a felony and, upon conviction thereof, shall be confined in a  
 11 state correctional facility under the control of the Commissioner of Corrections for not less than  
 12 one nor more than five years or fined not more than \$5,000.

13 (b) Any person employed by the Division of Corrections and Rehabilitation as a parole  
 14 officer or by the West Virginia Supreme Court of Appeals, or any person working at a day report  
 15 facility managed by the West Virginia Supreme Court of Appeals pursuant to contract or as an  
 16 employee of a state agency as an adult or juvenile probation, or day report center officer who  
 17 engages in sexual intercourse, sexual intrusion or sexual contact with a person said ~~parole officer~~  
 18 ~~or probation~~ officer is charged as part of his or her employment with supervising, is guilty of a

19 felony and, upon conviction thereof, shall be confined in a state correctional facility under the  
20 control of the Commissioner of Corrections and Rehabilitation for not less than one nor more than  
21 five years or fined not more than \$5,000, or both.

22 (c) The term "incarcerated in this state" for purposes of this section includes in addition to  
23 its usual meaning, offenders serving a sentence under the provisions of article §62-11B-1 *et seq*  
24 of this code.

25 (d) Authorized pat-down, strip search or other security related tasks does not constitute  
26 sexual contact pursuant to this section.

NOTE: The purpose of this bill is to include employees and contract employees of a day report center to those prohibited from engaging in sexual acts with those persons under their supervision.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.