

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 575**

BY SENATORS TRUMP, WOELFEL, AND GRADY

[Originating in the Committee on the Judiciary;

reported on February 16, 2022]



1 A BILL to amend and reenact §61-8B-10 of the Code of West Virginia, 1931, as amended, relating  
2 to the felony offense of imposition of sexual acts by any employee or volunteer on persons  
3 incarcerated, detained, or under supervision by the Division of Corrections and  
4 Rehabilitation, or the West Virginia Supreme Court of Appeals, or by any person acting  
5 pursuant to or under the authority of any sheriff, county commission, municipality, or court  
6 to ensure compliance with the provisions of §62-11B-1 *et seq.* of this code; clarifying that  
7 the felony offense applies to a person working at a juvenile facility or working for a  
8 municipal home incarceration alternative sentencing program; providing that the felony  
9 offense applies to sexual imposition on persons detained at or committed to a facility;  
10 establishing criminal penalties; and clarifying the definition of “incarcerated or detained in  
11 this state” to include adult and juvenile offenders sentenced, detained, committed, or  
12 serving a period of supervision pursuant to §62-11B-1 *et seq.* of this code.

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

**ARTICLE 8B. SEXUAL OFFENSES.**

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

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

10 (b) Any person employed by the Division of Corrections and Rehabilitation as a parole  
11 officer or by the West Virginia Supreme Court of Appeals as an adult or juvenile probation officer,  
12 who engages in sexual intercourse, sexual intrusion, or sexual contact with a person said parole  
13 officer or probation officer is charged as part of his or her employment with supervising, is guilty  
14 of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a  
15 state correctional facility for not less than one nor more than five years, or both fined and  
16 imprisoned.

17 (c) Any person working or volunteering in an alternative sentence program authorized by  
18 the provisions of §62-11C-1 *et seq.* of this code who, as part of his or her employment or volunteer  
19 duties, supervises program participants, and engages in sexual intercourse, sexual intrusion, or  
20 sexual contact with a program participant is guilty of a felony, and upon conviction thereof, shall  
21 be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one  
22 nor more than five years, or both fined and imprisoned.

23 (d) The term “incarcerated or detained in this state” for purposes of this section includes,  
24 in addition to its usual meaning, adult offenders serving a sentence or a period of supervision  
25 under the provisions of §62-11B-1 *et seq.* of this code, and juvenile offenders detained,  
26 committed, or serving a period of supervision under the provisions of §62-11B-1 et seq. of this  
27 code.

28 ~~(e) Authorized pat-down, strip search or other security related tasks do not constitute~~  
29 ~~sexual contact pursuant to this section.~~

30 (e) An authorized pat-down, strip search, or other security-related task does not constitute  
31 sexual contact pursuant to this section.