

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2981

By Delegates Foster and C. Pritt

[Introduced January 24, 2023; Referred to the Committee
on the Judiciary]

1 A BILL to amend and reenact §62-1-5 of the Code of West Virginia, 1931, as amended, relating to
 2 criminal procedure; preliminary procedure; and when a mug shot of an accused person
 3 may be made public.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. PRELIMINARY PROCEDURE.

**§62-1-5. Same -- Delivery of prisoner before magistrate; complaint for person arrested
 without warrant; return; photographs or mug shots.**

1 (a) (1) An officer making an arrest under a warrant issued upon a complaint, or any person
 2 making an arrest without a warrant for an offense committed in his or her presence or as otherwise
 3 authorized by law, shall take the arrested person without unnecessary delay before a magistrate of
 4 the county where the arrest is made.

5 (2) If a person arrested without a warrant is brought before a magistrate, a complaint shall
 6 be filed forthwith in accordance with the requirements of rules of the Supreme Court of Appeals.

7 (3) An officer executing a warrant shall make return thereof to the magistrate before whom
 8 the defendant is brought.

9 (b)(1) Notwithstanding any other provision of this code to the contrary, if a person arrested
 10 without a warrant is brought before a magistrate prior to the filing of a complaint, a complaint shall
 11 be filed forthwith in accordance with the requirements of rules of the Supreme Court of Appeals,
 12 and the issuance of a warrant or a summons to appear is not required.

13 (2) When a person appears initially before a magistrate either in response to a summons or
 14 pursuant to an arrest with or without a warrant, the magistrate shall proceed in accordance with the
 15 requirements of the applicable provisions of the rules of the Supreme Court of Appeals.

16 (c) Notwithstanding any other provision of this code to the contrary, when a person is
 17 arrested and photographed at a jail, copies of the photograph or mug shot may not be made
 18 available to the public unless that person is subsequently convicted of a crime or confesses to that
 19 crime.

NOTE: The purpose of this bill is to prohibit release mug shots of persons arrested for a crime unless that person is convicted of the crime.

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