

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 626

By Senators Rucker and Martin

[Introduced February 14, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-8-5 of the Code of West Virginia, 1931, as amended; to amend
2 said code by adding thereto a new section, designated §61-8-5a; and to amend and
3 reenact §61-8-6, §61-8-7, and §61-8-8 of said code, all relating to increasing the penalties
4 for operating a house of prostitution; specifying persons operating a house of prostitution
5 shall be charged with a felony; increasing fines; increasing punishments; removing
6 antiquated language; adding penalties for customers of prostitution; and specifying
7 punishment will be served in a state correctional facility.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

**§61-8-5. Houses of ill fame and assignation; immunity for minor victims of sex trafficking;
penalties; jurisdiction of courts.**

1 (a) Any person who shall keep, set up, maintain, or operate any house, place, building,
2 hotel, tourist camp, other structure, or part thereof, or vehicle, trailer, or other conveyance for the
3 purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist
4 camp, other structure, or part thereof, or trailer or other conveyance knowing the same to be used
5 for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such
6 place, premises, or conveyance to another with knowledge or good reason to know of the intention
7 of the lessee or rentee to use such place, premises, or conveyance for prostitution, lewdness, or
8 assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any
9 other lewd or indecent act; or who shall receive or offer or agree to receive any person into any
10 house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other
11 conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to
12 remain there for such purpose; or who for another or others shall direct, take, or transport, or offer
13 or agree to take or transport, or aid or assist in transporting, any person to any house, place,
14 building, hotel, tourist camp, other structure, vehicle, trailer, or other conveyance, or to any other
15 person with knowledge or having reasonable cause to believe that the purpose of such directing,

16 taking, or transporting is prostitution, lewdness, or assignation; or who shall aid, abet, or
17 participate in the doing of any acts herein prohibited, shall, upon conviction for the first offense
18 under this section, shall be guilty of a felony and be punished by imprisonment in ~~the county jail a~~
19 state correctional facility for a period not less than ~~six months nor more than one year~~ one year nor
20 more than three years, and by a fine of not less than ~~\$100 and not to exceed \$250~~ \$1,000 and not
21 to exceed \$2,500, and upon conviction for any subsequent offense under this section shall be
22 punished by imprisonment in ~~the penitentiary~~ a state correctional facility for a period of not less
23 than ~~one year nor more than five years~~ three years nor more than five years.

24 (b) Any person who shall engage in prostitution, lewdness, or assignation, or who shall
25 solicit, induce, entice, or procure another to commit an act of prostitution, lewdness, or
26 assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist
27 camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the
28 purpose of prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing
29 of any of the acts herein prohibited, shall, upon conviction for the first offense under this section,
30 shall be guilty of a misdemeanor and be punished by imprisonment in ~~the county jail a state~~
31 correctional facility for a period of not less than 60 days nor more than six months, and by a fine of
32 not less than ~~\$50~~ \$100 and not to exceed ~~\$100~~ \$200; and upon conviction for the second offense
33 under this section, be punished by imprisonment in ~~the county jail a state correctional facility~~ for a
34 period of not less than ~~six months~~ one year nor more than ~~one year~~ two years, and by a fine of not
35 less than ~~\$100~~ \$500 and not to exceed ~~\$250~~ \$1,000, and upon conviction for any subsequent
36 offense under this section shall be punished by confinement in a state correctional facility for not
37 less than one year nor more than three years: *Provided*, That no minor shall be prosecuted nor
38 held criminally liable for an offense of prostitution in violation this subsection if the court
39 determines that the minor is a victim of an offense under §61-14-1 *et seq.* of this code.

40 The subsequent offense provision shall apply only to the pimp, panderer, solicitor,
41 operator, or any person benefiting financially or otherwise from the earnings of a prostitute, which

42 shall be its own separate punishment, and a person in this category shall, upon conviction for the
43 separate offense under this section, shall be guilty of a felony and be punished by imprisonment in
44 a state correctional facility for a period not less than one year nor more than three years, and by a
45 fine of not less than \$1,000 and not to exceed \$2,500, and upon conviction for any subsequent
46 offense under this section shall be punished by imprisonment in a state correctional facility for a
47 period of not less than three years nor more than five years.

48 (c) All leases and agreements, oral or written, for letting, subletting, or renting any house,
49 place, building, hotel, tourist camp, or other structure which is used for the purpose of prostitution,
50 lewdness, or assignation, shall be void from and after the date of any person who is a party to such
51 an agreement shall be convicted of an offense hereunder. The term "tourist camp" shall include
52 any temporary or permanent buildings, tents, cabins, or structures, or trailers, or other vehicles
53 which are maintained, offered, or used for dwelling or sleeping quarters for pay.

54 (d) In the trial of any person, charged with a violation of any of the provisions of this section,
55 testimony concerning the reputation or character of any house, place, building, hotel, tourist camp,
56 or other structure, and of the person or persons who reside in or frequent same, and of the
57 defendant or defendants, shall be admissible in evidence in support of the charge. Justices of the
58 peace shall have concurrent jurisdiction with circuit, intermediate, and criminal courts to try and
59 determine the ~~misdemeanors~~ felonies set forth and described in this section.

**§61-8-5a. Penalties for customers and consumers of prostitution, houses of ill fame;
enhanced penalties for sex for hire with victims of human trafficking.**

1 For the purposes of this section, any person who pays for sex, or offers to pay for sex with a
2 person providing sexual services for payment, or is otherwise a customer or consumer of the
3 services of a prostitute, or a house of ill fame, shall be guilty of a misdemeanor, punishable
4 pursuant to the provision of this section.

5 Any person convicted of a first offense as a customer or consumer of prostitution, for
6 paying for, or offering to pay for sexual services, may be confined in jail for no less than 10 days,

7 nor more than 30 days, and may be fined no less than \$100 nor more than \$250, or both fined and
8 imprisoned.

9 Any person convicted of a second offense as a customer or consumer of prostitution, for
10 paying for, or offering to pay for sexual services, may be confined in jail for no less than 30 days,
11 nor more than 60 days, and may be fined no less than \$250 nor more than \$500, or both fined and
12 imprisoned.

13 Any person convicted of a third offense as a customer or consumer of prostitution, for
14 paying for, or offering to pay for sexual services, may be confined in jail for no less than 60 days,
15 nor more than six months, and may be fined no less than \$500 nor more than \$1,000, or both fined
16 and imprisoned.

17 Any person convicted pursuant to this section as a customer or consumer of prostitution,
18 for paying for, or offering to pay for sexual services for hire from any person being human
19 trafficked, is guilty of a felony and shall be confined in a state correctional facility for no less than
20 six months, nor more than one year, and may be fined no less than \$1,000 nor more than \$2,500,
21 or both fined and imprisoned. A lack of knowledge by the customer or consumer of sexual services
22 shall not be a defense where the person offering such services is a human trafficking victim.

23 Upon conviction of each offense as described in this section, the court or jurisdiction where
24 the offense occurred shall publish the full legal name, age, booking picture, nature of the offense,
25 and the name of the county of residence where such person resides, as a Class 1 legal
26 advertisement, as described pursuant to §59-3-2 of this code.

§61-8-6. Detention of person in place of prostitution; penalty.

1 Whoever shall by any means keep, hold, detain or restrain any person in a house of
2 prostitution or other place where prostitution is practiced or allowed; or whoever shall, directly or
3 indirectly, keep, hold, detain or restrain, or attempt to keep, hold, detain or restrain, in any house of
4 prostitution or other place where prostitution is practiced or allowed, any person by any means, for
5 the purpose of compelling such person, directly or indirectly, to pay, liquidate or cancel any debt,

6 dues or obligations incurred or said to have been incurred by such person shall, upon conviction
 7 for the first offense under this section, be punished by imprisonment in the ~~county jail~~ a state
 8 correctional facility for a period of not less than ~~six months nor more than one year~~ nor more than
 9 three years, and by a fine of not less than ~~\$100~~ \$1,000 nor more than ~~\$500~~ \$5,000, and upon
 10 conviction for any subsequent offense under this section shall be punished by imprisonment in ~~the~~
 11 ~~penitentiary~~ a state correctional facility for not less than ~~one~~ two nor more than ~~three~~ five years:
 12 *Provided*, That in any offense under this section where the person so kept, held, detained or
 13 restrained is a minor, any person violating the provisions of this section shall be guilty of a felony,
 14 and, upon conviction, shall be confined in ~~the penitentiary~~ a state correctional facility not less than
 15 ~~two~~ three years nor more than five years or fined not more than \$5,000, or both.

**§61-8-7. Procuring for house of prostitution; penalty; venue; competency as witness;
 marriage no defense.**

1 Any person who shall procure an inmate for a house of prostitution, or who, by promises,
 2 threats, violence, or by any device or scheme, shall cause, induce, persuade or encourage a
 3 person to become an inmate of a house of prostitution, or shall procure a place as inmate in a
 4 house of prostitution for a person; or any person who shall, by promises, threats, violence, or by
 5 any device or scheme cause, induce, persuade or encourage an inmate of a house of prostitution
 6 to remain therein as such inmate; or any person who shall, by fraud or artifice, or by duress of
 7 person or goods, or by abuse of any position of confidence or authority, procure any person to
 8 become an inmate of a house of ill fame, or to enter any place in which prostitution is encouraged
 9 or allowed within this state, or to come into or leave this state for the purpose of prostitution, or who
 10 shall procure any person to become an inmate of a house of ill fame within this state or to come
 11 into or leave this state for the purpose of prostitution; or shall receive or give or agree to receive or
 12 give any money or thing of value for procuring or attempting to procure any person to become an
 13 inmate of a house of ill fame within this state, or to come into or leave this state for the purpose of
 14 prostitution, shall be guilty of pandering, and, upon a first conviction for an offense under this

15 section, shall be guilty of a felony and be punished by imprisonment in ~~the county jail~~ a state
16 correctional facility for a period of not less than ~~six months~~ one year nor more than ~~one year~~ three
17 years, and by a fine of not less than ~~\$400~~ \$1,000 nor more than ~~\$500~~ \$2,500, and upon conviction
18 for any subsequent offense under this section shall be punished by imprisonment in ~~the~~
19 ~~penitentiary~~ a state correctional facility for a period of not less than ~~one~~ two nor more than five
20 years: *Provided*, That where the inmate referred to in this section is a minor, any person violating
21 the provisions of this section shall be guilty of a felony, and, upon conviction shall be confined in
22 ~~the penitentiary~~ a state correctional facility not less than ~~two~~ three years nor more than five years
23 or fined not more than \$5,000, or both.

24 It shall not be a defense to prosecution for any of the acts prohibited in this section that any
25 part of such act or acts shall have been committed outside of this state, and the offense shall in
26 such case be deemed and alleged to have been committed and the offender tried and punished in
27 any county in which the prostitution was intended to be practiced, or in which the offense was
28 consummated, or any overt act in furtherance of the offense was committed.

29 Any such person shall be a competent witness in any prosecution under this section to
30 testify for or against the accused as to any transaction, or as to conversation with the accused, or
31 by the accused with another person or persons in his or her presence, notwithstanding his or her
32 having married the accused before or after the violation of any of the provisions of this section,
33 whether called as a witness during the existence of the marriage or after its dissolution. The act or
34 state of marriage shall not be a defense to any violation of this section.

§61-8-8. Receiving support from prostitution; pimping; penalty; prostitute may testify.

1 Any person who, knowing another person to be a prostitute, shall live or derive support or
2 maintenance, in whole or in part, from the earnings or proceeds of the prostitution of such
3 prostitute, or from money loaned or advanced to or charged against such prostitution by any
4 keeper or manager or inmate of a house or other place where prostitution is practiced or allowed,
5 or shall tout or receive compensation for touting for such prostitution, shall be guilty of a felony for

6 pimping, and, upon the first conviction for such offense, shall be punished by imprisonment in ~~the~~
7 ~~county jail~~ a state correctional facility for a period of not less than ~~six months nor more than one~~
8 year nor more than three years, and by a fine of not less than ~~\$100~~ \$1,000 nor more than ~~\$500~~
9 \$5,000; and, upon a conviction for any subsequent offense hereunder, shall be punished by
10 imprisonment in ~~the penitentiary~~ a state correctional facility for a period of not less than ~~one nor~~
11 ~~more than three years~~ nor more than five years: *Provided*, That where the prostitute referred to in
12 this section is a minor, any person violating the provisions of this section shall be guilty of a felony,
13 and, upon conviction shall be confined in ~~the penitentiary~~ a state correctional facility not less than
14 two years nor more than five years or fined not more than \$5,000, or both. A prostitute shall be a
15 competent witness in any prosecution hereunder to testify for or against the accused as to any
16 transaction or conversation with the accused, or by the accused with another person or persons in
17 the presence of the prostitute, even if the prostitute may have married the accused before or after
18 the violation of any of the provisions of this section, whether called as a witness during the
19 existence of the marriage or after its dissolution.

NOTE: The purpose of this bill is to increase the penalties for operating a house of prostitution from a misdemeanor to a felony in order to provide law enforcement with adequate tools to address human trafficking in the illegal sex trade industries.

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