

HB 4036 US

FILED

2006 MAR 31 P 2:45

SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4036

(By Mr. Speaker, Mr. Kiss, and Delegates Varner,
Campbell, Stemple, Kominar, Amores, Crosier,
R. M. Thompson and Craig)



Passed March 11, 2006

In Effect Ninety Days from Passage

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FOR

H. B. 4036

(BY MR. SPEAKER, MR. KISS, AND DELEGATES VARNER,
CAMPBELL, STEMPLE, KOMINAR, AMORES, CROSIER,
R. M. THOMPSON AND CRAIG)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11-8a, relating to creating the offense of solicitation to commit a felony crime of violence against the person; defining terms; penalties; and defenses.

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 section, designated §61-11-8a, to read as follows:

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-8a. Solicitation to commit certain felonies; classification; defenses.

1 (a) Any person who solicits another to commit a violation
2 of the law which constitutes a felony crime of violence against
3 the person is guilty of a felony, and upon conviction thereof,
4 shall be:

5 (1) Confined in a state correctional facility for not less than
6 three nor more than fifteen years if the offense solicited is
7 punishable by life imprisonment;

8 (2) Imprisoned in the state correctional facility for not less
9 than one nor more three years or fined not more than five
10 thousand dollars, or both, if the offense solicited is punishable
11 by incarceration in the state correctional facility for a term of
12 less than life imprisonment. In the circuit court's discretion a
13 person so convicted may be ordered confined in jail for a term
14 not to exceed one year in lieu of incarceration in a state
15 correctional facility;

16 (b)(1) As used in this section, "solicitation" means the
17 willful and knowing instigation or inducement of another to
18 commit a felony crime of violence against the person of a third
19 person; and

20 (2) As used in this section, "felony crime of violence
21 against the person" means the felony offense set forth in
22 sections one, nine, ten-b and twelve, article two of this chapter.

23 (c) In a prosecution under the provisions of this section, it
24 is not a defense:

25 (1) That the defendant belongs to a class of persons who by
26 definition are legally incapable in an individual capacity of
27 committing the crime that is the object of the solicitation; or

28 (2) That a person whom the defendant solicits could not be
29 guilty of a crime that is the object of the solicitation.

30 (d) It is an affirmative and complete defense to a prosecu-
31 tion under the provisions of this section that the defendant
32 under circumstances manifesting a voluntary and complete
33 renunciation of the defendant's criminal intent, after soliciting
34 another person to engage in conduct constituting a felony,
35 prevented the commission of the crime.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.




Chairman Senate Committee



Chairman House Committee

Originating in the House.

In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 31st
day of March, 2006.



Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2006

Time 10:40am