

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2966

BY MR. SPEAKER (MR. ARMSTEAD), SHOTT, HANSHAW,
SUMMERS, SOBONYA, LANE, N. FOSTER, OVERINGTON,
FAST, G. FOSTER AND O'NEAL

[Introduced March 13, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §61-14-1, §61-14-2, §61-14-3 and §61-14-4, all relating to creating the West
 3 Virginia Sentencing Commission; establishing composition and membership of
 4 commission; providing legislative findings and purpose; setting forth objectives for the
 5 commission to pursue; and providing powers and duties of the commission.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §61-14-1, §61-14-2, §61-14-3 and §61-14-4, all to read as follows:

ARTICLE 14. WEST VIRGINIA SENTENCING COMMISSION.

**§61-14-1. Creation of sentencing commission; how members are appointed; no
 compensation for service of members; terms of office for members; quorum; how
 chairperson elected; executive director.**

1 (a) There is created the West Virginia Sentencing Commission.

2 (b) The commission consists of the following members, who serve without compensation:

3 (1) Two members are from the West Virginia House of Delegates, to be appointed by the
 4 Speaker of the House of Delegates, who serve as ex-officio members;

5 (2) Two members are members of the West Virginia Senate, to be appointed by the
 6 President of the Senate, who serve as ex-officio members;

7 (3) Five members who are current or retired circuit judges, magistrates or municipal court
 8 judges, to be appointed by the Governor, who serve as ex-officio members;

9 (4) Two members that are citizens of West Virginia, with no required prerequisite other
 10 than citizenship in this state, to be appointed by the Governor;

11 (5) The presiding Chief Justice of the West Virginia Supreme Court of Appeals, who serves
 12 as an ex officio member;

13 (6) One county prosecutor and one public defender appointed by the Governor.

14 (c) Each member serves a two-year term, with the exception of the ex officio members

15 who serve as long as they hold their respective offices.

16 (d) The chairperson of this commission shall be elected by the other members of the
17 commission.

18 (e) Five members of the commission is a quorum.

19 (f) The commission shall elect one of its members to serve as the Executive Director of
20 the Commission and provide administrative services to the commission.

§61-14-2. Purpose of commission.

1 The Legislature finds and declares that:

2 (1) There is a need for fair and uniform sentencing;

3 (2) There is a need for research on issues regarding sentencing in order to promote a
4 fuller understanding of the efficient, just and fair operation of this state's criminal justice system;

5 (3) There is a need for establishing priorities with regard to the severity of the criminal
6 offenses; and

7 (4) There is a need to use the limited correctional resources in a manner best able to fulfill
8 the goals of criminal punishment, rehabilitation and protection of the public.

§61-14-3. Objectives of the commission.

1 The Sentencing Commission shall pursue the following objectives:

2 (1) Promoting sentencing that more accurately reflects the time that an offender will
3 actually be incarcerated;

4 (2) Reducing unwarranted disparity in sentences for offenders who have committed similar
5 offenses and have similar criminal histories;

6 (3) Preserving meaningful judicial discretion in the imposition of sentences and sufficient
7 flexibility to permit individualized sentences;

8 (4) Ensuring that sentencing judges in every jurisdiction in the state are able to impose
9 the most appropriate criminal penalties including correctional options programs for appropriate
10 nonviolent offenders; and

11 (5) Determining whether the state needs to set out all criminal offenses in terms of priority

12 in order of severity and harm to society and to provide alternatives to incarceration for certain
13 offenses.

§61-14-4. Powers and duties of the commission.

1 The Sentencing Commission established pursuant to this article has the following powers
2 and duties:

3 (1) The commission may establish general policies in accordance with article three,
4 chapter twenty-nine-a of this code as are necessary to carry out the purposes of this article;

5 (2) The commission may request information, data and reports from any officer or agency
6 of the state government, as the commission may from time to time require and as may be
7 produced consistent with other law;

8 (3) The commission may issue invitations requesting the attendance and testimony of
9 witnesses and the production of any evidence that relates directly to a matter with respect to which
10 the commission or any member thereof is empowered to make a determination under this article;

11 (4) The commission shall establish a research and development program within the
12 commission for the purpose of:

13 (A) Serving as a clearinghouse and information center for the collection, preparation and
14 dissemination of information on sentencing practices; and

15 (B) Assisting and serving in a consulting capacity to state courts, departments and
16 agencies in the development, maintenance and coordination of sound sentencing practices;

17 (5) The commission shall collect data obtained from studies, research and the empirical
18 experience of public and private agencies concerning the sentencing processes;

19 (6) The commission shall publish data concerning the sentencing process;

20 (7) The commission shall collect and disseminate information concerning sentences
21 actually imposed;

22 (8) The commission shall, collect and disseminate information regarding effectiveness of
23 sentences imposed;

24 (9) The commission shall make recommendations to the Legislature concerning

25 modification or enactment of sentencing and correctional statutes which the commission finds to
26 be necessary and advisable to carry out an effective, humane and rational sentencing policy;

27 (10) The commission shall establish a plan and timetable to collect and disseminate
28 information relating to incapacitation, recidivism, deterrence and overall effectiveness of
29 sentences imposed;

30 (11) The commission shall provide recommendations to the Legislature for the creation of
31 programs and establishment of facilities in the state that provide how the state can best shift its
32 expenditures in a revenue neutral fashion away from incarceration to interdiction programs,
33 facilities, and related services.

34 (12) The commission shall evaluate the state's sentencing and correctional laws and
35 policies and make recommendations to the Governor and the Legislature on or before January 1,
36 2018, and at its discretion after that or at the request of the President of the Senate or the Speaker
37 of the House of Delegates, regarding the following issues:

38 (A) Whether the state should adopt guided discretion sentencing guidelines and, if so,
39 what type of guided discretion sentencing guidelines should be adopted;

40 (B) Whether the state should alter the manner in which an inmate may obtain credit for
41 good time served or released on mandatory supervision;

42 (C) Whether the state needs to take action to ensure that there is a coordinated system of
43 correctional options to incarceration at the state and county levels and, if so, what action should
44 be taken; and

45 (D) Any other matters relating to state and local laws and policies governing sentencing,
46 parole, mandatory supervision and correctional options programs.

NOTE: The purpose of this bill is to create the West Virginia Sentencing Commission.

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