

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2757

FISCAL  
NOTE

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CAPUTO, MILLER, MANDT, CADLE, STEELE AND FAST

[Introduced January 30, 2019; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §5-1-10 of the Code of West Virginia, 1931, as amended, relating  
 2 to the authorization of the Governor to seek the return of fugitives when found in another  
 3 state or the District of Columbia; providing for return of persons who have been improperly  
 4 released from confinement; and updating terms, titles, and cross-references.

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

**ARTICLE 1. THE GOVERNOR.**

**§5-1-10. Return of fugitive from this state.**

1 (a) Whenever the Governor of this state shall demand a person charged with crime, or  
 2 ~~with escaping~~ who has escaped from confinement, or ~~breaking~~ has violated the terms of ~~his~~ the  
 3 person's bail, probation, or parole in this state, or has been improperly released from confinement,  
 4 from the executive authority of any other state, or from the chief justice or an associate justice of  
 5 the supreme court of the District of Columbia authorized to receive such demand under the laws  
 6 of the United States, ~~he~~ the Governor shall issue a warrant under the great seal of this state  
 7 affixed thereon by the Secretary of State, to some agent, commanding him or her to receive the  
 8 person so charged if delivered to him or her and to convey him or her to the proper officer of the  
 9 county in this state in which the offense was committed.

10 (b) When the return to this state of a person charged with crime in this state is required,  
 11 the prosecuting attorney shall present to the Governor his or her written application for a  
 12 requisition for the return of the person charged, in which application shall be stated the name of  
 13 the person so charged, the crime charged against him, the approximate time, place and  
 14 circumstances of its commission, the state in which he or she is believed to be, including the  
 15 location of the accused therein, at the time the application is made, and certifying that, in the  
 16 opinion of the said prosecuting attorney, the ends of justice require the arrest and return of the  
 17 accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

18 (c) When the return to this state is required of a person who has been previously convicted  
 19 of a crime in this state and has escaped from confinement, has been improperly released from

20 confinement, or ~~broken~~ has violated the terms of his or her bail, probation or parole, the  
21 prosecuting attorney of the county in which the offense was committed, the Parole Board, or the  
22 ~~warden of the institution~~ Commissioner of the Division of Corrections and Rehabilitation, or sheriff  
23 of the county, from which escape was made, shall present to the Governor a written application  
24 for a requisition for the return of such person, in which application shall be stated the name of the  
25 person, the crime of which ~~he~~ the person was convicted, the circumstances of his or her escape  
26 from confinement or of the breach of the terms of his or her bail, probation or parole, the state in  
27 which ~~he~~ the person is believed to be, including the location of the person therein at the time  
28 application is made.

29 (d) The application shall be verified by affidavit, shall be executed in duplicate and shall  
30 be accompanied by either: pursuant to subsection (b) of this section, two certified copies of the  
31 indictment returned or information and affidavit filed, or, pursuant to subsection (c) of this section,  
32 two certified copies of the complaint made to the judge or justice, stating the offense with which  
33 the accused is charged, or the judgment of conviction or of the sentence. The prosecuting  
34 attorney, Parole Board, ~~warden~~ Commissioner of the Division of Corrections and Rehabilitation  
35 or sheriff may also attach such further affidavits and other documents in duplicate as he or she  
36 shall deem proper to be submitted with such application. One copy of the application, with the  
37 action of the Governor indicated by endorsement thereon, and one of the certified copies of the  
38 indictment, complaint, information, and affidavits, or of the judgment of conviction or of the  
39 sentence shall be filed in the office of the Secretary of State, to remain of record in that office.  
40 The other copies of all papers shall be forwarded with the Governor's requisition.

NOTE: The purpose of this bill is to update provisions authorizing the Governor to seek the return of fugitives who have been convicted of a crime, have violated bail, probation, or parole, or have been improperly released from confinement when those persons flee to another state or to the District of Columbia.

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