

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 484**

By Senators Rucker, Deeds, Barrett, Woodrum,  
Martin, and Hamilton

[Originating in the Committee on the Judiciary;  
reported on February 7, 2023]

1 A Bill to amend the Code of West Virginia, 1931, as amended; and by adding thereto a new section  
2 designated §61-10-35, relating to creating the criminal offense of human smuggling;  
3 defining terms; clarifying that each person smuggled constitutes a separate offense;  
4 acknowledging prohibition against police action based on race or ethnic origin; and  
5 establishing criminal penalties.

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

## **ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.**

### **§61-10-35. Human smuggling; definitions; penalties.**

1 (a) Any person, who for a commercial purpose, knowingly and willfully transports or  
2 facilitates the transport of persons in this state, whom he or she knows or has reason to know is not  
3 lawfully present in the United States, is guilty of human smuggling.

4 (b) Any person who commits human smuggling where the person smuggled is 18 years of  
5 age or older is guilty of a felony and upon conviction thereof, shall be imprisoned in a state  
6 corrections facility, for not less than one nor more than five years, or fined not more than \$200,000  
7 or both imprisoned and fined.

8 (c) Any person who commits human smuggling where the persons smuggled are younger  
9 than 18 years of age is guilty of a felony and upon conviction thereof shall be imprisoned in a state  
10 correctional facility, for not less than two nor more than 10 years, or fined not more than \$300,000,  
11 or both imprisoned and fined.

12 (d) Each person smuggled as defined in this section constitutes a separate, and distinct  
13 offense.

14 (e) Nothing in this section may be construed to authorize or warrant persons being stopped  
15 or detained pursuant to this section based solely upon race or ethnic origin.

16 (f) As used in this section:

17 (1) "Commercial purpose" means the charging or receiving a monetary fee or other thing of  
18 value.

19           (2) “Facilitating” means aiding and abetting human smuggling by such means as providing  
20 travel and lodging arrangement services, the means of transportation, or false identification  
21 documents.

22           (3) “Human smuggling” means the provision of a service including providing  
23 transportation, false identification documents, or transient housing to a person who voluntarily  
24 seeks to gain illegal entry into the United States.