

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2535**

By Delegates Brooks, Pritt, Kump, and Mazzocchi

[Introduced February 18, 2025; referred to the  
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,  
2 designated §62-8-1a, relating to creating the offense of being in possession of drugs or  
3 testing positive for drug use while incarcerated; setting penalties; and mandating testing  
4 after three months of incarceration.

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

**ARTICLE 8. CRIMES BY AND PROCEEDINGS AGAINST INMATES.**

**§62-8-1a. Inmates in possession of illegal drugs or testing positive for illegal drugs while  
incarcerated; penalties; when testing begins.**

1 (a) While incarcerated, inmates should not be in possession of illegal drugs nor test  
2 positive for the use of illegal drugs. If any inmate is found to be in possession of illegal drugs or  
3 tests positive for illegal drugs while incarcerated, the following penalties shall apply:

4 (1) For a first offense, the incarcerated individual shall have six months added to the  
5 sentence they are currently serving; and

6 (2) For a second or subsequent offense, the incarcerated individual shall have one year  
7 added to the sentence they are currently serving, which shall be served consecutively in addition  
8 to the current sentence, for each instance of possession or a positive drug test; and

9 (3) If there are multiple instances of possession or positive drug tests, the sentences shall  
10 run consecutive following the completion of the sentence the incarcerated individual is currently  
11 serving.

12 (b) Testing for the use of illegal drugs shall begin after three months of incarceration for  
13 every incarcerated individual and shall be conducted thereafter in accordance with the availability  
14 of testing equipment and staff to conduct said tests or upon suspicion that the incarcerated  
15 individual may be in possession of illegal drugs or fail a drug test for illegal drugs.

NOTE: The purpose of this bill is to create the offense of being in possession of drugs or testing positive for drug use while incarcerated, setting penalties for first, second, and subsequent offenses, and mandating testing after three months of incarceration for illegal drugs.

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