

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

House Bill 3189

By Delegates Green, Martin, Kelly, Brooks, Mallow,
Heckert, Browning, Ward, Pinson, Marple, and
Funkhouser

[Introduced March 06, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-5-8 of the Code of West Virginia, 1931, as amended, relating to
2 federal correctional institutions; adding federal correctional institutions to the list of
3 correctional facilities in which it is a criminal offense to deliver any thing unlawfully to a
4 person in custody or confined therein.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

**§61-5-8. Aiding escape and other offenses relating to adults and juveniles in custody or
confinement; penalties.**

1 (a) Where any adult or juvenile is lawfully detained in custody or confinement in any jail,
2 state correctional facility, juvenile facility or juvenile detention center, or federal correctional facility,
3 if any other person delivers anything into the place of custody or confinement of the adult or
4 juvenile with the intent to aid or facilitate the adult's or juvenile's escape or attempted escape
5 therefrom, or if the other person forcibly rescues or attempts to rescue an adult or a juvenile
6 therefrom, the other person is guilty of a felony and, upon conviction thereof, shall be confined in a
7 state correctional facility not less than one nor more than ten years.

8 (b) Where any adult or juvenile is lawfully detained in custody or confinement in any jail, a
9 state correctional facility, ~~or~~ a juvenile facility or juvenile detention center, or federal correctional
10 facility, if any other person delivers any money or other thing of value, any written or printed matter,
11 any article of merchandise, food or clothing, any medicine, utensil or instrument of any kind to the
12 adult or juvenile without the express authority and permission of the supervising officer and with
13 knowledge that the adult or juvenile is lawfully detained, the other person is guilty of a
14 misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500
15 and confined in jail not less than three nor more than twelve months: *Provided*, That the provisions
16 of this section do not prohibit an attorney or his or her employees from supplying any written or
17 printed material to an adult or juvenile which pertains to that attorney's representation of the adult
18 or juvenile.

(c)(1) If any person transports any alcoholic liquor, nonintoxicating beer, poison, implement of escape, dangerous material, weapon, or any controlled substance as defined by chapter sixty-a of this code onto the grounds of any jail, state correctional facility, juvenile facility or juvenile detention center or federal correctional facility within this state and is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, the person is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state correctional facility not less than two years nor more than ten years, or both, or, in the discretion of the court, be confined in jail not more than one year and fined not more than \$500.

(2) If any person willfully and knowingly transports or causes to be transported any telecommunications device into or upon any portion of any jail, state correctional facility, juvenile facility or juvenile detention center, or federal correctional facility within this state that is not generally open and accessible to members of the public without prior approval from the warden/administrator or designee and such person is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or confined in jail not more than one year or both fined and confined.

(d) If any person delivers any alcoholic liquor, nonintoxicating beer, poison, implement of escape, dangerous material, weapon or any controlled substance as defined by chapter sixty-a of this code to an adult or juvenile in custody or confinement in any jail, state correctional facility, juvenile facility or juvenile detention center, or federal correctional facility within this state and is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, the person is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state correctional facility not less than one year nor more than five years, or both.

(e) Whoever purchases, accepts as a gift or secures by barter, trade or in any other manner any article or articles manufactured at or belonging to any jail, state correctional facility,

juvenile facility or juvenile detention center, or federal correctional facility from any adult or juvenile detained therein is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 and confined in jail not less than three nor more than twelve months: *Provided*, That the provisions of this subsection do not apply to articles specially manufactured in any facility under the authorization of the persons supervising the facility and which are offered for sale within or outside of the facility.

(f) Whoever persuades, induces or entices or attempts to persuade, induce or entice any person who is in custody or confined in any jail, state correctional facility, juvenile facility or juvenile detention center, or federal correctional facility to escape therefrom or to engage or aid in any insubordination to the persons supervising the facility is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 and confined in jail not less than three nor more than twelve months.

(g) (1) An inmate of a jail, state correctional facility, juvenile facility or juvenile detention center, or federal correctional facility having in his or her possession any poison, implement of escape, dangerous material, weapon, telecommunications device or any controlled substance as defined by chapter sixty-a of this code is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state correctional facility not less than one year nor more than five years, or both, or, in the discretion of the court, be confined in jail not more than one year and fined not more than \$500.

(2) An inmate of a jail, state correctional facility, juvenile facility or juvenile detention center, or federal correctional facility having in his or her possession any alcoholic liquor, nonintoxicating beer, money or other thing of value, any written or printed matter, any article of merchandise, food or clothing, any medicine, utensil or instrument of any kind without the express authority and permission of the supervising officer is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 and confined in jail not more than twelve months.

(h) As used in this section:

(1) "Dangerous material" means any incendiary material or device, highly flammable or caustic liquid, explosive, bullet or other material readily capable of causing death or serious bodily injury.

(2) "Delivers" means to transfer an item to an adult or juvenile who is detained in custody or confinement in any jail, correctional facility, juvenile facility or juvenile detention center or a building appurtenant to those places. The term includes bringing the item into a jail, correctional facility, juvenile facility or juvenile detention center or a building appurtenant to those places. The term includes putting an item in a place where it may be obtained by an inmate.

(3) "Inmate" means an adult or juvenile who is detained in custody or confinement in any jail, correctional facility, juvenile facility or juvenile detention center, regardless of whether the individual is temporarily absent due to medical treatment, transportation, court appearance or other reason for a temporary absence.

(4) "Implement of escape" means a tool, implement, device, equipment or other item which an inmate is not authorized to possess capable of facilitating, aiding or concealing an escape or attempted escape by an inmate.

(5) "Telecommunication device" means any type of instrument, device, machine or equipment which is capable of transmitting telephonic, electronic, digital, cellular or radio communications or any part of an instrument, device, machine or equipment which is capable of facilitating the transmission of telephonic, electronic, digital, cellular or radio communications regardless of whether the part itself is able to transmit. The term includes, but is not limited to, cellular phones, digital phones and modem equipment devices.

(6) "Weapon" means an implement readily capable of lethal use and includes any firearm, knife, dagger, razor, other cutting or stabbing implement or club. The term includes any item which has been modified or adapted so that it can be used as a firearm, knife, dagger, razor, other cutting or stabbing implement or club. For purposes of this definition, the term "firearm" includes an unloaded firearm or the unassembled components of a firearm.