

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3425

By Delegate Kelly

[By request of Department of Homeland Security –

Division of Corrections and Rehabilitation]

[Introduced March 17, 2025; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §61-8B-10 of the Code of West Virginia, 1931, as amended, relating
2 to sexual offenses against incarcerated, detained, or under supervision persons; and
3 clarifying that any person employed by the Division of Corrections and Rehabilitation
4 pursuant to a contract includes contracted staff that work for vendors.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-10. Imposition of sexual acts on persons incarcerated, detained, or under supervision; penalties.

1 (a) Any person employed by the Division of Corrections and Rehabilitation, any person
2 working at a correctional or juvenile facility managed by the Commissioner of Corrections and
3 Rehabilitation pursuant to contract, such as a vendor, or as an employee of a state agency or as a
4 volunteer or any person employed by, or acting pursuant to, the authority of any sheriff, county
5 commission, municipality, or court to ensure compliance with the provisions of §62-11B-1 *et seq.*
6 of this code who engages in sexual intercourse, sexual intrusion, or sexual contact with a person
7 who is incarcerated or detained in this state is guilty of a felony and, upon conviction thereof, shall
8 be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor
9 more than five years, or both fined and imprisoned.

10 (b) Any person employed by the Division of Corrections and Rehabilitation as a parole
11 officer or by the West Virginia Supreme Court of Appeals as an adult or juvenile probation officer,
12 who engages in sexual intercourse, sexual intrusion, or sexual contact with a person said parole
13 officer or probation officer is charged as part of his or her employment with supervising, is guilty of
14 a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a state
15 correctional facility for not less than one nor more than five years, or both fined and imprisoned.

16 (c) Any person working or volunteering in an alternative sentence program authorized by
17 the provisions of §62-11C-1 *et seq.* of this code who, as part of his or her employment or volunteer
18 duties, supervises program participants, and engages in sexual intercourse, sexual intrusion, or

19 sexual contact with a program participant is guilty of a felony, and upon conviction thereof, shall be
20 fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor
21 more than five years, or both fined and imprisoned.

22 (d) The term "incarcerated or detained in this state" for purposes of this section includes, in
23 addition to its usual meaning, adult offenders serving a sentence or a period of supervision under
24 the provisions of §62-11B-1 *et seq.* of this code, and juvenile offenders detained, committed, or
25 serving a period of supervision under the provisions of §62-11B-1 *et seq.* of this code.

26 (e) An authorized pat-down, strip search, or other security-related task does not constitute
27 sexual contact pursuant to this section.

NOTE: The purpose of this bill is to add language to the statute to clarify that any person employed by the Division of Corrections and Rehabilitation pursuant to a contract includes contracted staff that work for vendors.

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