

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 1046

By Senator Bartlett

[Introduced February 21, 2026; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-8B-3 and §62-3-15 of the Code of West Virginia, 1931, as
 2 amended, relating to the penalty for first degree sexual assault; raising the fine for first
 3 degree sexual assault; providing that life in prison is the sentence for first degree sexual
 4 assault when the defendant is over 18 years old and the victim is younger than 12; and
 5 providing jury procedures when a defendant is eligible for life in prison for first degree
 6 sexual assault.

Be it enacted by the Legislature of West Virginia:

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-3. Sexual assault in the first degree.

1 (a) A person is guilty of sexual assault in the first degree when:

2 (1) The person engages in sexual intercourse or sexual intrusion with another person and,
 3 in so doing:

4 (A) Inflicts serious bodily injury upon anyone;

5 (ii) (B) Employs a deadly weapon in the commission of the act.

6 (2) The person, being 14 years old or more, engages in sexual intercourse or sexual
 7 intrusion with another person who is younger than 12 years old.

8 (b) Any person violating the provisions of this section is guilty of a felony and, upon
 9 conviction thereof, shall be fined not less than ~~\$1,000~~ \$10,000 nor more than ~~\$10,000~~ \$100,000
 10 and imprisoned in a state correctional facility not less than 15 nor more than 35 years.

11 (c) Notwithstanding the provisions of subsection (b) of this section, ~~the penalty for any~~
 12 ~~person found guilty of~~ violating the provisions of subsection (a) of this section who is 18 years of
 13 age or older and whose victim is younger than 12 years of age, shall be ~~imprisonment~~ imprisoned
 14 in a state correctional facility for ~~not less than 25 nor more than 100 years~~ life and a fine of not less
 15 than ~~\$5,000~~ \$50,000 nor more than ~~\$25,000~~ \$250,000.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 3. TRIAL OF CRIMINAL CASES.

§62-3-15. Verdict and sentence in murder and first-degree sexual assault cases.

1 (a) If a person indicted for murder ~~be~~ is found guilty by the jury, ~~guilty thereof, they the jury~~
2 shall in their verdict find whether he or she is guilty of murder of the first degree or second degree.
3 ~~If the person indicted for murder is found by the jury guilty thereof, and if the jury find in their verdict~~
4 that he or she is guilty of murder of the first degree, or if a person indicted for murder pleads guilty
5 of murder of the first degree, he or she shall be punished by imprisonment in the penitentiary for
6 life, and he or she, notwithstanding ~~the provisions of article twelve, chapter sixty-two~~ §62-12-1 et
7 seq. of this code, shall not be eligible for parole: *Provided*, That the jury may, in their discretion,
8 recommend mercy, and if such recommendation is added to their verdict, such person shall be
9 eligible for parole in accordance with the provisions of ~~said article twelve~~ §62-12-1 et seq. of this
10 code, except that, notwithstanding any other provision of this code to the contrary, such person
11 shall not be eligible for parole until he or she has served 15 years: *Provided, however*, That if the
12 accused pleads guilty of murder of the first degree, the court may, in its discretion, provide that
13 such person shall be eligible for parole in accordance with the provisions of ~~said article twelve~~ §62-
14 12-1 et seq. of this code, and, if the court so provides, such person shall be eligible for parole in
15 accordance with the provisions of ~~said article twelve~~ §62-12-1 et seq. of this code in the same
16 manner and with like effect as if such person had been found guilty by the verdict of a jury and the
17 jury had recommended mercy, except that, notwithstanding any provision of ~~said article twelve~~
18 §62-12-1 et seq. or any other provision of this code to the contrary, such person shall not be
19 eligible for parole until he or she has served ~~fifteen~~ 15 years.

20 (b) If a person indicted for sexual assault is found guilty by the jury, the jury shall in their
21 verdict find whether he or she is guilty of sexual assault of the first degree or second degree. If the
22 jury find in their verdict that the defendant is guilty of sexual assault of the first degree, is over 18

23 years of age, and the victim was under 12 years of age, or if the defendant indicted for sexual
24 assault pleads guilty of sexual assault of the first degree, is over 18 years of age, and the victim
25 was under 12 years of age, the defendant shall be punished by imprisonment in the penitentiary
26 for life, and he or she, notwithstanding the provisions of §62-12-1 et seq. of this code, shall not be
27 eligible for parole: *Provided*, That the jury may, in their discretion, recommend mercy, and if such
28 recommendation is added to their verdict, such person shall be eligible for parole in accordance
29 with the provisions of §62-12-1 et seq. of this code, except that, notwithstanding any other
30 provision of this code to the contrary, such person shall not be eligible for parole until he or she
31 has served 15 years: *Provided*, however, That if the accused pleads guilty of sexual assault of the
32 first degree, the court may, in its discretion, provide that such person shall be eligible for parole in
33 accordance with the provisions §62-12-1 et seq. of this code, and, if the court so provides, such
34 person shall be eligible for parole in accordance with the provisions of §62-12-1 et seq. of this
35 code in the same manner and with like effect as if such person had been found guilty by the
36 verdict of a jury and the jury had recommended mercy, except that, notwithstanding any provision
37 of §62-12-1 et seq. of this code or any other provision of this code to the contrary, such person
38 shall not be eligible for parole until he or she has served 15 years.

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NOTE: The purpose of this bill is to raise the penalty for first degree sexual assault to life in prison.

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