

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 137

BY SENATOR DEEDS

[Passed March 11, 2026; in effect 90 days from

passage (June 9, 2026)]

1 AN ACT to amend and reenact §61-2-3, §61-2-4, §62-3-15, and §62-12-13 of the Code of West
2 Virginia, 1931, as amended, relating to the penalties for homicide and crimes punishable
3 by life imprisonment; increasing the minimum and maximum term of imprisonment for
4 second degree murder; increasing the minimum imprisonment required to be served for
5 second degree murder; increasing the minimum and maximum term of imprisonment for
6 voluntary manslaughter; increasing the minimum imprisonment required to be served for
7 voluntary manslaughter; increasing the minimum period of imprisonment prior to parole
8 eligibility for individuals sentenced to life imprisonment; increasing the minimum period of
9 imprisonment prior to parole eligibility for individuals sentenced to life imprisonment as a
10 recidivist; increasing the minimum period of imprisonment prior to parole eligibility for
11 individuals sentenced to life imprisonment for first degree murder; clarifying the crimes in
12 the definition of a felony offense where the victim was a minor child; clarifying the crimes
13 for which the parole board may waiver certain required reports; clarifying appearance in
14 person or by electronic teleconference by certain persons at parole review hearings; and
15 creating criminal penalties.

Be it enacted by the Legislature of West Virginia:

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-3. Penalty for murder of second degree.

1 Murder of the second degree shall be punished by a definite term of imprisonment in the
2 penitentiary which is not less than 15 nor more than 60 years. A person imprisoned pursuant to
3 the provisions of this section is not eligible for parole prior to having served a minimum of 15 years
4 of his or her sentence or the minimum period required by the provisions of §62-12-13 of this code,
5 whichever is greater. §61-2-4. Voluntary manslaughter; penalty.

6 Voluntary manslaughter shall be punished by a definite term of imprisonment in the
7 penitentiary which is not less than five nor more than 25 years. A person imprisoned pursuant to

8 the provisions of this section is not eligible for parole prior to having served a minimum of five
9 years of his or her sentence or the minimum period required by the provisions of §62-12-13 of
10 this code, whichever is greater.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-3-15. Verdict and sentence in murder cases.

1 If a person indicted for murder be found by the jury guilty thereof, they shall in their verdict
2 find whether he or she is guilty of murder of the first degree or second degree. If the person
3 indicted for murder is found by the jury guilty thereof, and if the jury find in their verdict that he or
4 she is guilty of murder of the first degree, or if a person indicted for murder pleads guilty of murder
5 of the first degree, he or she shall be punished by imprisonment in the penitentiary for life, and he
6 or she, notwithstanding the provisions of §62-12-1 *et seq.* of this code, shall not be eligible for
7 parole: *Provided*, That the jury may, in their discretion, recommend mercy, and if such
8 recommendation is added to their verdict, such person shall be eligible for parole in accordance
9 with the provisions of §62-12-1 *et seq.* of this code: *Provided, however*, That if the accused pleads
10 guilty of murder of the first degree, the court may, in its discretion, provide that such person shall
11 be eligible for parole in accordance with the provisions of §62-12-1 *et seq.* of this code and, if the
12 court so provides, such person shall be eligible for parole in accordance with the provisions of
13 §62-12-1 *et seq.* of this code in the same manner and with like effect as if such person had been
14 found guilty by the verdict of a jury and the jury had recommended mercy.

§62-12-13. Powers and duties of board; eligibility for parole; procedure for granting parole.

1 (a) The Parole Board, whenever it is of the opinion that the best interests of the state and
2 of the inmate will be served, and subject to the limitations provided in this section, shall release
3 any inmate on parole for terms and upon conditions provided by this article.

4 (b) Any inmate of a state correctional institution is eligible for parole if he or she:

5 (1) (A) Has served the minimum term of his or her indeterminate sentence or has served
6 one fourth of his or her definite term sentence; or

7 (B) He or she has applied for and been accepted by the Commissioner of the Division of
8 Corrections and Rehabilitation into an accelerated parole program. To be eligible to participate in
9 an accelerated parole program, the commissioner must determine that the inmate:

10 (i) Does not have a prior criminal conviction for a felony crime of violence against the
11 person, a felony offense involving the use of a firearm, or a felony offense where the victim was
12 a minor child;

13 (ii) Is not serving a sentence for a felony crime of violence against the person, or more
14 than one felony for a controlled substance offense for which the inmate is serving a consecutive
15 sentence, a felony offense involving the use of a firearm, or a felony offense where the victim was
16 a minor child; and

17 (iii) Has successfully completed a rehabilitation treatment program created with the
18 assistance of a standardized risk and needs assessment.

19 (C) Notwithstanding any provision of this code to the contrary, any inmate who committed,
20 or attempted to commit, a felony with the use, presentment, or brandishing of a firearm is not
21 eligible for parole prior to serving a minimum of three years of his or her sentence or the maximum
22 sentence imposed by the court, whichever is less: *Provided*, That any inmate who committed, or
23 attempted to commit, any violation of §61-2-12 of this code, with the use, presentment, or
24 brandishing of a firearm, is not eligible for parole prior to serving a minimum of five years of his or
25 her sentence or one third of his or her definite term sentence, whichever is greater. Nothing in
26 this paragraph applies to an accessory before the fact or a principal in the second degree who
27 has been convicted as if he or she were a principal in the first degree if, in the commission of or
28 in the attempted commission of the felony, only the principal in the first degree used, presented,
29 or brandished a firearm. An inmate is not ineligible for parole under the provisions of this
30 paragraph because of the commission or attempted commission of a felony with the use,

31 presentment, or brandishing of a firearm unless that fact is clearly stated and included in the
32 indictment or presentment by which the person was charged and was: (i) Found guilty by the court
33 at the time of trial upon a plea of guilty or nolo contendere; (ii) Found guilty by the jury upon
34 submitting to the jury a special interrogatory for such purpose if the matter was tried before a jury;
35 or (iii) Found guilty by the court if the matter was tried by the court without a jury.

36 (D) The amendments to this subsection adopted in the year 1981:

37 (i) Apply to all applicable offenses occurring on or after August 1 of that year;

38 (ii) Apply with respect to the contents of any indictment or presentment returned on or after
39 August 1 of that year irrespective of when the offense occurred;

40 (iii) Apply with respect to the submission of a special interrogatory to the jury and the
41 finding to be made thereon in any case submitted to the jury on or after August 1 of that year or
42 to the requisite findings of the court upon a plea of guilty or in any case tried without a
43 jury: *Provided*, That the state gives notice in writing of its intent to seek such finding by the jury or
44 court. The notice shall state with particularity the grounds upon which the finding will be sought
45 as fully as the grounds are otherwise required to be stated in an indictment, unless the grounds
46 upon which the finding will be sought are alleged in the indictment or presentment upon which the
47 matter is being tried;

48 (iv) Does not apply with respect to cases not affected by the amendments and in those
49 cases the prior provisions of this section apply and are construed without reference to the
50 amendments; and

51 (v) Insofar as the amendments relate to mandatory sentences restricting the eligibility for
52 parole, all matters requiring a mandatory sentence shall be proved beyond a reasonable doubt in
53 all cases tried by the jury or the court.

54 (E) As used in this section, "felony crime of violence against the person" means felony
55 offenses set forth in §61-2-1 *et seq.*, §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, or §61-8D-1 *et seq.* of
56 this code.

57 (F) As used in this section, "felony offense where the victim was a minor child" means any
58 felony crime of violence against the person and any felony violation set forth in §61-8-1 *et seq.*,
59 §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, §61-8D-1 *et seq.*, or §61-8F-1 *et seq.* of this code.

60 (G) For the purpose of this section, the term "firearm" means any instrument which will, or
61 is designed to, or may readily be converted to, expel a projectile by the action of an explosive,
62 gunpowder, or any other similar means;

63 (2) Is not in punitive segregation or administrative segregation as a result of disciplinary
64 action;

65 (3) Has prepared and submitted to the Parole Board a written parole release plan setting
66 forth proposed plans for his or her place of residence, employment, and, if appropriate, his or her
67 plans regarding education and post-release counseling and treatment which has been approved
68 by the Division of Corrections and Rehabilitation: *Provided*, That an inmate's application for parole
69 may be considered by the board without the prior submission of a home plan, but the inmate shall
70 have a home plan approved by the division prior to his or her release on parole. The
71 Commissioner of the Division of Corrections and Rehabilitation, or his or her designee, shall
72 review and investigate the plan and provide findings to the board as to the suitability of the
73 plan: *Provided, however*, That in cases in which there is a mandatory 30-day notification period
74 required prior to the release of the inmate, pursuant to §62-12-23 of this code, the board may
75 conduct an initial interview and deny parole without requiring the development of a plan. In the
76 event the board believes parole should be granted, it may defer a final decision pending
77 completion of an investigation and receipt of the commissioner's findings. Upon receipt of the
78 plan, together with the investigation and findings, the board, through a panel, shall make a final
79 decision regarding the granting or denial of parole;

80 (4) Has satisfied the board that if released on parole he or she will not constitute a danger
81 to the community; and

82 (5) Has successfully completed any individually required rehabilitative and educational
83 programs, as determined by the division, while incarcerated: *Provided*, That, effective September
84 1, 2021, any inmate who satisfies all other parole eligibility requirements but is unable, through
85 no fault of the inmate, to complete his or her required rehabilitative and educational programs
86 while incarcerated, which are eligible to be taken while on parole, may be granted parole with the
87 completion of the specified programs outside of the correctional institutions as a special condition
88 of that person's parole term: *Provided, however*, That the Parole Board may consider whether
89 completion of the inmate's outstanding amount of such programming would interfere with his or
90 her successful reintegration into society.

91 (c)(1) Except in the case of an inmate serving a life sentence, a person who has been
92 previously twice convicted of a felony may not be released on parole until he or she has served
93 the minimum term provided by law for the crime for which he or she was convicted. An inmate
94 sentenced for life may not be paroled until he or she has served 10 years, and an inmate
95 sentenced for life who has been previously twice convicted of a felony may not be paroled until
96 he or she has served 15 years: *Provided*, That an inmate convicted of first degree murder for an
97 offense committed on or after June 10, 1994 is not eligible for parole until he or she has served
98 15 years.

99 (2) Notwithstanding the provisions of subdivision (1) of this subsection, an inmate
100 sentenced for life for offenses committed on or after July 1, 2026, may not be paroled until he or
101 she has served 20 years, and an inmate sentenced for life for offenses committed on or after July
102 1, 2026, who has been previously twice convicted of a felony may not be paroled until he or she
103 has served 25 years.

104 (3) Notwithstanding subdivision (1) or (2) of this subsection, an inmate convicted of first
105 degree murder for an offense committed on or after July 1, 2026, is not eligible for parole until he
106 or she has served 25 years.

107 (d) In the case of an inmate sentenced to a state correctional facility regardless of the
108 inmate's place of detention or incarceration, the Parole Board, as soon as that inmate becomes
109 eligible, shall consider the advisability of his or her release on parole.

110 (e) If, upon consideration, parole is denied, the board shall promptly notify the inmate of
111 the denial. The board shall, at the time of denial, notify the inmate of the month and year he or
112 she may apply for reconsideration and review. The board shall at least once a year reconsider
113 and review the case of every inmate who was denied parole and who is still eligible: *Provided,*
114 That the board may reconsider and review parole eligibility any time within three years following
115 the denial of parole of an inmate serving a life sentence with the possibility of parole.

116 (f) Any inmate in the custody of the commissioner for service of a sentence who reaches
117 parole eligibility is entitled to a timely parole hearing without regard to the location in which he or
118 she is housed.

119 (g) The board shall, with the approval of the Governor, adopt rules governing the
120 procedure in the granting of parole. No provision of this article and none of the rules adopted
121 under this article are intended or may be construed to contravene, limit, or otherwise interfere with
122 or affect the authority of the Governor to grant pardons and reprieves, commute sentences, remit
123 fines, or otherwise exercise his or her constitutional powers of executive clemency.

124 (h) (1) The Division of Corrections and Rehabilitation shall promulgate policies and
125 procedures for developing a rehabilitation treatment plan created with the assistance of a
126 standardized risk and needs assessment. The policies and procedures shall provide for, at a
127 minimum, screening and selecting inmates for rehabilitation treatment and development, using
128 standardized risk and needs assessment and substance abuse assessment tools, and prioritizing
129 the use of residential substance abuse treatment resources based on the results of the
130 standardized risk and needs assessment and a substance abuse assessment. The results of all
131 standardized risk and needs assessments and substance abuse assessments are confidential.

132 (2) An inmate shall not be paroled under paragraph (B), subdivision (1), subsection (b) of
133 this section solely due to having successfully completed a rehabilitation treatment plan, but
134 completion of all the requirements of a rehabilitation treatment plan along with compliance with
135 the requirements of subsection (b) of this section creates a rebuttable presumption that parole is
136 appropriate. The presumption created by this subdivision may be rebutted by a Parole Board
137 finding that, according to the standardized risk and needs assessment, at the time parole release
138 is sought the inmate still constitutes a reasonable risk to the safety or property of other persons if
139 released. Nothing in subsection (b) of this section or in this subsection may be construed to create
140 a right to parole.

141 (i) Notwithstanding the provisions of subsection (b) of this section, the Parole Board may
142 grant or deny parole to an inmate against whom a detainer is lodged by a jurisdiction other than
143 West Virginia for service of a sentence of incarceration, upon a written request for parole from the
144 inmate. A denial of parole under this subsection precludes consideration for parole for a period of
145 one year or until the provisions of subsection (b) of this section are applicable.

146 (j) If an inmate is otherwise eligible for parole pursuant to subsection (b) of this section,
147 and has completed the rehabilitation treatment program required under subdivision (1),
148 subsection (h) of this section, the Parole Board may not require the inmate to participate in an
149 additional program, but may determine that the inmate must complete an assigned task or tasks
150 prior to actual release on parole. The board may grant parole contingently, effective upon
151 successful completion of the assigned task or tasks, without the need for a further hearing.

152 (k) (1) The Division of Corrections and Rehabilitation shall supervise all probationers and
153 parolees whose supervision may have been undertaken by this state by reason of any interstate
154 compact entered into pursuant to the Uniform Act for Out-of-State Parolee Supervision.

155 (2) The Division of Corrections and Rehabilitation shall provide supervision,
156 treatment/recovery, and support services for all persons released to mandatory supervision under
157 §15A-4-17 of this code.

158 (l) (1) When considering an inmate of a state correctional facility for release on parole, the
159 Parole Board panel considering the parole shall have before it an authentic copy of, or report on,
160 the inmate's current criminal record as provided through the West Virginia State Police, the United
161 States Department of Justice, or any other reliable criminal information sources and written
162 reports of the superintendent of the state correctional institution to which the inmate is sentenced:

163 (A) On the inmate's conduct record while in custody, including a detailed statement
164 showing any and all infractions of disciplinary rules by the inmate and the nature and extent of
165 discipline administered for the infractions;

166 (B) On the inmate's industrial record while in custody which shall include: The nature of
167 his or her work, occupation or education, the average number of hours per day he or she has
168 been employed or in class while in custody, and a recommendation as to the nature and kinds of
169 employment which he or she is best fitted to perform and in which the inmate is most likely to
170 succeed when he or she leaves the state correctional institution; and

171 (C) On any physical, mental, psychological, or psychiatric examinations of the inmate.

172 (2) The Parole Board panel considering the parole may waive the requirement of any
173 report when not available or not applicable as to any inmate considered for parole but, in every
174 case, shall enter in its record its reason for the waiver: *Provided*, That in the case of an inmate
175 who is incarcerated because the inmate has been found guilty of, or has pleaded guilty to, a felony
176 under the provisions of §61-8-12 of this code or under the provisions of §61-8B-1 *et seq.*, §61-
177 8C-1 *et seq.*, or §61-8D-5 of this code, the Parole Board panel may not waive the report required
178 by this subsection. The report shall include a study and diagnosis of the inmate, including an on-
179 going treatment plan requiring active participation in sexual abuse counseling at an approved
180 mental health facility or through some other approved program: *Provided, however*, That nothing
181 disclosed by the inmate during the study or diagnosis may be made available to any law-
182 enforcement agency, or other party without that inmate's consent, or admissible in any court of
183 this state, unless the information disclosed indicates the intention or plans of the parolee to do

184 harm to any person, animal, institution, or property. Progress reports of outpatient treatment are
185 to be made at least every six months to the parole officer supervising the parolee. In addition, in
186 such cases, the Parole Board shall inform the prosecuting attorney of the county in which the
187 person was convicted of the parole hearing and shall request that the prosecuting attorney inform
188 the Parole Board of the circumstances surrounding a conviction or plea of guilty, plea bargaining,
189 and other background information that might be useful in its deliberations.

190 (m) (1) Before releasing any inmate on parole, the Parole Board shall arrange for the
191 inmate to appear in person before a Parole Board panel and the panel may examine and
192 interrogate him or her on any matters pertaining to his or her parole, including reports before the
193 Parole Board made pursuant to the provisions of this section: *Provided*, That an inmate may
194 appear by video teleconference if the members of the Parole Board panel conducting the
195 examination are able to contemporaneously see the inmate and hear all of his or her remarks and
196 if the inmate is able to contemporaneously see each of the members of the panel conducting the
197 examination and hear all of the members' remarks: *Provided, however*, That the requirement that
198 an inmate personally appear may be waived where a physician authorized to do so by the
199 Commissioner of the Division of Corrections and Rehabilitation certifies that the inmate, due to a
200 medical condition or disease, is too debilitated, either physically or cognitively, to appear. The
201 panel shall reach its own written conclusions as to the desirability of releasing the inmate on
202 parole and the majority of the panel considering the release must concur in the decision. The
203 superintendent shall furnish all necessary assistance and cooperate to the fullest extent with the
204 Parole Board. All information, records, and reports received by the Parole Board shall be kept on
205 permanent file.

206 (2) At a hearing to consider the propriety of granting parole for an inmate of a state
207 correctional facility, a victim or victim's representative, or a prosecuting attorney or his or her
208 assistants or appointees, may elect to appear in person or by electronic teleconference. The

209 Division of Corrections and Rehabilitation may promulgate policies and procedures to implement
210 the provisions of this subdivision.

211 (n) The Parole Board and its designated agents are at all times to have access to inmates
212 imprisoned in any state correctional facility or in any jail in this state and may obtain any
213 information or aid necessary to the performance of its duties from other departments and agencies
214 of the state or from any political subdivision of the state.

215 (o) The Parole Board shall, if requested by the Governor, investigate and consider all
216 applications for pardon, reprieve, or commutation and shall make recommendation on the
217 applications to the Governor.

218 (p) Prior to making a recommendation for pardon, reprieve, or commutation, the board
219 shall notify the sentencing judge and prosecuting attorney at least 10 days before the
220 recommendation.

221 (q) A parolee shall participate as a condition of parole in the litter control program of the
222 county to which he or she is released to the extent directed by the Parole Board, unless the board
223 specifically finds that this alternative service would be inappropriate.

224 (r) The commissioner shall develop, maintain, and make publicly available a general list
225 of rehabilitative and educational programs available outside of the correctional institutions which
226 an inmate may be required to complete as a special condition of parole pursuant to subdivision
227 (5), subsection (b) of this section, and the manner and method in which such programs shall be
228 completed by the parolee.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the Senate

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Clerk of the House of Delegates

Originated in the Senate.

In effect 90 days from passage.

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President of the Senate

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Speaker of the House of Delegates

The within is this the.....
Day of, 2026.

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Governor