

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 440**

BY SENATORS DEEDS, HAMILTON, WOELFEL, WILLIS, AND

TARR

[Reported February 3, 2026, from 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  
2 to federal correctional institutions; adding federal correctional institutions to the list of  
3 correctional facilities in which it is a criminal offense to deliver anything unlawfully to a  
4 person in custody or confined therein; adding telecommunications device as a prohibited  
5 object that may be delivered or transported, or caused to be delivered or transported, into  
6 a correctional institution; updating and expanding the definition of a telecommunications  
7 device; and amending, enhancing, and modifying criminal penalties related to crime of  
8 aiding escape and other offenses relating to adults and juveniles in custody or  
9 confinement.

*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  
3 facility, if any other person delivers anything into the place of custody or confinement of the adult  
4 or juvenile with the intent to aid or facilitate the adult's or juvenile's escape or attempted escape  
5 therefrom from the facility, or if the other person forcibly rescues or attempts to rescue an adult  
6 or a juvenile therefrom from the facility, the other person is guilty of a felony and, upon conviction  
7 thereof, shall be confined in a state correctional facility not less than one three nor more than ten  
8 15 years.

9 (b) Where any adult or juvenile is lawfully detained in custody or confinement in any jail, a  
10 state correctional facility, or a juvenile facility or juvenile detention center, or federal correctional  
11 facility, if any other person delivers any money or other thing of value, any written or printed  
12 matter, any article of merchandise, food or clothing, any medicine, utensil or instrument of any  
13 kind to the adult or juvenile without the express authority and permission of the supervising officer

14 and with knowledge that the adult or juvenile is lawfully detained, the other person is guilty of a  
15 misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500  
16 and confined in jail not less than three nor more than 12 months: *Provided*, That the provisions of  
17 this section do not prohibit an attorney or his or her employees from supplying any written or  
18 printed material to an adult or juvenile which pertains to that attorney's representation of the adult  
19 or juvenile.

20 (c)(1) If any person transports, or causes to be transported, any alcoholic liquor,  
21 nonintoxicating beer, poison, implement of escape, dangerous material, weapon,  
22 telecommunication device, or any controlled substance as defined by chapter 60A of this code  
23 onto the grounds of any jail, state correctional facility, juvenile facility, or juvenile detention center,  
24 or federal correctional facility within this state and is unauthorized by law to do so, or is  
25 unauthorized by the persons supervising the facility, the person is guilty of a felony and, upon  
26 conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state  
27 correctional facility not less than two years nor more than 10 years, or both ~~or, in the discretion of~~  
28 ~~the court, be confined in jail not more than one year and fined not more than \$500.~~

29 (2) ~~If any person willfully and knowingly transports or causes to be transported any~~  
30 ~~telecommunications device into or upon any portion of any jail, state correctional facility, juvenile~~  
31 ~~facility or juvenile detention center within this state that is not generally open and accessible to~~  
32 ~~members of the public without prior approval from the warden/administrator or designee and such~~  
33 ~~person is unauthorized by law to do so, or is unauthorized by the persons supervising the facility,~~  
34 ~~the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than~~  
35 ~~\$100 nor more than \$500 or confined in jail not more than one year or both fined and confined.~~

36 (d) If any person delivers, or causes to be delivered, any alcoholic liquor, nonintoxicating  
37 beer, poison, implement of escape, dangerous material, weapon, telecommunication device, or  
38 any controlled substance as defined by chapter 60A of this code to an adult or juvenile in custody  
39 or confinement in any jail, state correctional facility, juvenile facility, or juvenile detention center,

40        or federal correctional facility within this state and is unauthorized by law to do so, or is  
41        unauthorized by the persons supervising the facility, the person is guilty of a felony and, upon  
42        conviction thereof, ~~shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state~~  
43        ~~correctional facility not less than one year nor more than five years, or both~~ shall be fined not less  
44        \$1,000 nor more than \$5,000, or confined in a state correctional facility not less than two nor more  
45        than 10 years, or both.

46            (e) Whoever purchases, accepts as a gift, or secures by barter, trade, or in any other  
47        manner any article or articles manufactured at or belonging to any jail, state correctional facility,  
48        juvenile facility, ~~or juvenile detention center, or federal correctional facility~~ from any adult or  
49        juvenile detained ~~therein~~ in the facility is guilty of a misdemeanor and, upon conviction thereof,  
50        shall be fined not less than \$50 nor more than \$500 and confined in jail not less than three nor  
51        more than 12 months: *Provided*, That the provisions of this subsection do not apply to articles  
52        specially manufactured in any facility under the authorization of the persons supervising the facility  
53        and which are offered for sale within or outside of the facility.

54            (f) Whoever persuades, induces, or entices or attempts to persuade, induce, or entice any  
55        person who is in custody or confined in any jail, state correctional facility, juvenile facility, ~~or~~  
56        juvenile detention center, or federal correctional facility to escape ~~therefrom~~ from the facility or to  
57        engage or aid in any insubordination to the persons supervising the facility is guilty of a  
58        ~~misdemeanor~~ felony and, upon conviction thereof, shall be fined not less than ~~\$50 nor more than~~  
59        ~~\$500 and confined in jail not less than three nor more than twelve months~~ \$1,000 nor more than  
60        \$5,000 or confined in a state correctional facility not less than two nor more than 10 years, or  
61        both.

62            (g) (1) An inmate of a jail, state correctional facility, juvenile facility, ~~or juvenile detention~~  
63        center, or federal correctional facility having in his or her possession any poison, implement of  
64        escape, dangerous material, weapon, telecommunications device or any controlled substance as  
65        defined by chapter 60A of this code is guilty of a felony and, upon conviction thereof, shall be

66 fined not less than \$1,000 nor more than \$5,000 or confined in a state correctional facility not less  
67 than ~~one year~~ two years nor more than ~~five~~ 10 years, or both ~~or, in the discretion of the court, be~~  
68 ~~confined in jail not more than one year and fined not more than \$500.~~

69 (2) An inmate of a jail, state correctional facility, juvenile facility, or juvenile detention  
70 center, or federal correctional facility having in his or her possession any alcoholic liquor,  
71 nonintoxicating beer, money or other thing of value, any written or printed matter, any article of  
72 merchandise, food or clothing, any medicine, utensil or instrument of any kind without the express  
73 authority and permission of the supervising officer is guilty of a misdemeanor and, upon conviction  
74 thereof, shall be fined not less than \$50 nor more than \$500 and confined in jail not more than 12  
75 months.

76 (h) As used in this section:

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

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

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

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

93 (5) "Telecommunication device" means any type of instrument, device, machine, or  
94 equipment which is capable of transmitting or receiving telephonic, electronic, digital, cellular,  
95 satellite, internet, or radio communications or any part of an instrument, device, machine, or  
96 equipment which is capable of facilitating the transmission or reception of telephonic, electronic,  
97 digital, cellular, satellite, internet, or radio communications regardless of whether the part itself is  
98 able to transmit. The term includes, but is not limited to, cellular phones, digital phones, satellite  
99 phones, tablet computers, computers, smart devices, and or other modem equipment devices.

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