

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)(4) 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.