

1 **H. B. 2158**

2
3 (By Delegate Perry)

4 [Introduced January 12, 2011; referred to the
5 Committee on the Judiciary then Finance.]

6 **FISCAL**
7 **NOTE**

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9
10 A BILL to amend and reenact §61-8B-10 of the Code of West Virginia,
11 1931, as amended, relating to increasing the penalties for
12 sexual intercourse or sexual intrusion on incarcerated persons
13 to not less than ten nor more than twenty-five years or fined
14 not more than \$10,000.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §61-8B-10 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 8B. SEXUAL OFFENSES.**

19 **§61-8B-10. Imposition of sexual intercourse or sexual intrusion**
20 **on incarcerated persons; penalties.**

21 (a) Any person employed by the Division of Corrections, any
22 person working at a correctional facility managed by the
23 Commissioner of Corrections pursuant to contract or as an employee

1 of a state agency, any person working at a correctional facility
2 managed by the Division of Juvenile Services pursuant to contract
3 or as an employee of a state agency, any person employed by a jail
4 or by the Regional Jail and Correctional Facility Authority, any
5 person working at a facility managed by the Regional Jail and
6 Correctional Facility Authority or a jail or any person employed
7 by, or acting pursuant to, the authority of any sheriff, county
8 commission or court to ensure compliance with the provisions of
9 article eleven-b, chapter sixty-two of this code who engages in
10 sexual intercourse or sexual intrusion with a person who is
11 incarcerated in this state is guilty of a felony and, upon
12 conviction thereof, shall be confined in a state correctional
13 facility under the control of the Commissioner of Corrections for
14 not less than ~~one ten~~ nor more than ~~five~~ twenty-five years or fined
15 not more than ~~five thousand dollars~~ \$10,000.

16 (b) Any person employed by the Division of Corrections as a
17 parole officer or by the West Virginia Supreme Court of Appeals as
18 an adult or juvenile probation officer who engages in sexual
19 intercourse or sexual intrusion with a person said parole officer
20 or probation officer is charged as part of his or her employment
21 with supervising, is guilty of a felony and, upon conviction
22 thereof, shall be confined in a state correctional facility under
23 the control of the Commissioner of Corrections for not less than
24 one nor more than five years or fined not more than \$5,000, or

1 both.

2 (c) The term "incarcerated in this state" for purposes of this
3 section includes in addition to its usual meaning, offenders
4 serving a sentence under the provisions of article eleven-b,
5 chapter sixty-two of this code.

NOTE: The purpose of this bill is to increase the penalties for any person working at a correctional facility managed by the Commissioner of Corrections pursuant to contract or as an employee of a state agency, any person working at a correctional facility managed by the Division of Juvenile Services pursuant to contract or as an employee of a state agency, any person employed by a jail or by the Regional Jail and Correctional Facility Authority, any person working at a facility managed by the Regional Jail and Correctional Facility Authority or a jail or any person employee by, or acting pursuant to the authority of any sheriff, county commission or court to ensure compliance with the provisions of §62-11B, who engages in sexual intercourse or sexual intrusion with a person who is incarcerated to not less than ten years nor more than twenty-five years or fined not more than \$10,000.

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

This bill was recommended for introduction and passage during the 2010 Regular Session of the Legislature by the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority.