

1 **H. B. 3118**

2  
3 (By Delegate Manypenny)

4 [Introduced March 25, 2013; referred to the  
5 Committee on the Judiciary then Finance.]

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

8  
9  
10 A BILL to amend and reenact §62-3-13 of the Code of West Virginia,  
11 1931, as amended, relating to requiring a change of venue in  
12 all criminal matters for which the sentence could be life  
13 without mercy and to allow for appeals by current inmates who  
14 are serving a life without mercy charge and for whom no change  
15 of venue motion was made or granted.

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

17 That §62-3-13 of the Code of West Virginia, 1931, as amended,  
18 be amended and reenacted to read as follows:

19 **ARTICLE 3. TRIAL OF CRIMINAL CASES.**

20 **§62-3-13. Change of venue.**

21 (a) Except as provided in subsection (b) of this section, a  
22 court may, on the petition of the accused and for good cause shown,  
23 order the venue of the trial of a criminal case ~~in such court~~ to be

1 removed to some other county. When the venue is ~~so~~ changed, the  
2 court making the order shall recognize the witnesses and the  
3 accused, if the offense beailable and bail be given, to appear on  
4 ~~some~~ a certain day before the court to which the case is removed.  
5 If the offense be notailable or the bail required ~~be~~ not given,  
6 the court shall remand him or her to its own jail and order its  
7 officer to remove him or her ~~thence~~ to the jail of the court to  
8 which the case is ~~so~~ removed so that he or she ~~shall~~ will be there  
9 before the day for the appearance of the witnesses. The clerk of  
10 the court that orders a change of venue shall certify copies of  
11 ~~such~~ the recognizance and of the record of the case to the clerk of  
12 the court to which the case is removed. ~~and such court~~ The court to  
13 which the matter was removed shall proceed with the case as if the  
14 prosecution had been originally therein and for that purpose the  
15 certified copies aforesaid ~~shall be~~ are sufficient.

16 (b) A change of venue is required, upon motion, for one  
17 accused of a crime that carries a sentence of life without mercy.  
18 The procedure for removing in these instances are as described in  
19 subsection (a) of this section.

20 (c) A defendant convicted and serving a sentence of life  
21 without mercy at the time of the enactment of subsection (b) of  
22 this section, shall be granted an appeal, upon petition, of his or  
23 her conviction.

NOTE: The purpose of this bill is to require a change of venue in all criminal matters from which a sentence of life without mercy could result and to grant appeal rights to all defendants who are currently serving a life without mercy sentence.

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