

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2747

BY DELEGATES SHOTT, R. MILLER, KESSINGER, LANE, BYRD

AND ISNER

[BY REQUEST OF THE WEST VIRGINIA SUPREME
COURT OF APPEALS]

[Introduced March 1, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §62-7-10 of the Code of West Virginia, 1931, as amended; relating
 2 generally to removing archaic language; updating the commitment order form sentencing
 3 courts are required to complete; requiring that the commitment order must contain certain
 4 information; and clarifying that the sentencing court is required to transmit the certified
 5 commitment order Commissioner of the Division of Corrections upon issuance.

Be it enacted by the Legislature of West Virginia:

1 That §62-7-10 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 7. EXECUTION OF SENTENCES; STAYS.

§62-7-10. Commitment paper.

1 The clerk of a court in which a person is sentenced to any ~~penal institution~~ correctional
 2 facility in the State of West Virginia shall transmit to the ~~warden or superintendent of said~~
 3 ~~institution~~ Commissioner of the Division of Corrections a certified commitment paper ~~Said paper~~
 4 ~~shall be in the following form~~ order like, or similar to, the form provided in this section. If a
 5 commitment order in a form other than the one provided in this section is issued, the commitment
 6 order is required, at a minimum, to contain the same information.

7 Court of County,
 8 West Virginia
 9 State of West Virginia

10 v. No.

11 On this day of 19..... came the attorney for the state and the defendant appearing in
 12 person and ~~It is adjudged that the defendant has been convicted (found guilty by a jury) (upon~~
 13 ~~plea of guilty) of the offense of as charged and the Court having asked the~~
 14 ~~defendant whether he (she) has anything to say why judgment should not be pronounced, and no~~
 15 ~~sufficient cause to the contrary being shown or appearing to the Court, It is adjudged that the~~
 16 ~~defendant is guilty as charged and convicted. It is adjudged that the defendant is hereby~~

17 committed to the custody of the Warden of the West Virginia Penitentiary (Superintendent of the
18 West Virginia State Prison for Women) or his or her (her) authorized representative for
19 imprisonment for a period of

20 Conviction Date:

21 Sentence Date:

22 Effective Sentence Date:

23 It is adjudged that.....

24 It is ordered that the Clerk forthwith transmit this record, duly certified, of the judgment and
25 commitment to the Warden of the West Virginia Penitentiary (Superintendent of the West Virginia
26 State Prison for Women) and that this record serve as the commitment of the defendant.

27 County,

28

29 Judge

30 A true copy. Certified this day of, 19..

31

32 Clerk

33 -(Seal)

1 IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

2 State of West Virginia

3 v. _____ circuit court Case No. _____

4 Defendant: _____

5 DOB: _____ SSN: XXX-XX- _____ Gender: _____ Male/ _____ Female

6 WV DIVISION OF CORRECTIONS CERTIFIED COMMITMENT ORDER

7 On the _____ day of _____, 20 _____, the prosecuting attorney/Assistant,

8 _____, and the defendant appeared in person and with

9 counsel, _____.

10 The defendant has been convicted of the following offense(s):
11 _____

12 The defendant is committed to the custody of the WV Division of Corrections (WVDOC)
13 for a period of:
14 _____.

15 Conviction Date: _____ Sentence Date: _____

16 Effective Sentence Date: _____ Resentence Date: _____

17 Consecutive _____ Concurrent to:
18 _____

19 Credit for Jail/Prison Time Served: _____ days Credit for Home Incarceration: _____ days

20 Credit for Home Incarceration Parole: _____ days Other NonPenal Credit: _____ days

21 Additionally, the court finds:
22 _____

23 The defendant shall be transported to and held in the WV Regional Jail Authority until
24 transfer into WVDOC custody. The cost of this incarceration shall be paid by the WVDOC.

25 Special Instructions: _____

26 It is ordered that the circuit clerk shall forthwith transmit a certified copy of this judgment
27 and commitment to the WVRJA and to the Central Office Inmate Records Manager at the WVDOC
28 by fax at 304-558-8430 or by mail at 1409 Greenbrier Street, Charleston WV 25311.

29 Enter this _____ day of _____, 20____.

30 _____
31 Circuit Judge

NOTE: The purpose of this bill is to remove archaic language regarding commitment orders and to require that the sentencing court complete a certified commitment order in the form provided in this section or in a similar form containing the same information. This bill also clarifies that the sentencing court is required to transmit the certified commitment order to the Commissioner of the Division of Corrections.

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