

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2975**

BY DELEGATES MILLER AND D. KELLY

[Introduced on February 11, 2019; Referred to the  
Committee on the Judiciary.]



1 A BILL to amend and reenact §61-8B-10 of the Code of West Virginia, 1931, as amended, relating  
2 to imposition of sexual acts on persons incarcerated or under supervision; providing for  
3 prohibition against sexual acts for any person working at an alternative sentence program  
4 who has supervisory duties; and providing that employees working at an alternative  
5 sentence program who engage in sexual acts with a person said employee is charged as  
6 part of his or her employment with supervising, is guilty of a felony.

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

**ARTICLE 8B. SEXUAL OFFENSES.**

**§61-8B-10. Imposition of sexual acts on persons incarcerated or under supervision;  
penalties.**

1 (a) Any person employed by the Division of Corrections and Rehabilitation, any person  
2 working at a correctional facility managed by the Commissioner of Corrections and Rehabilitation  
3 pursuant to contract or as an employee of a state agency ~~any person working at a correctional~~  
4 ~~facility managed by the Division of Juvenile Services pursuant to contract or as an employee of a~~  
5 ~~state agency, any person employed by a jail or by the Regional Jail and Correctional Facility~~  
6 ~~Authority, any person working at a facility managed by the Regional Jail and Correctional Facility~~  
7 ~~Authority or a jail~~ or any person employed by, or acting pursuant to, the authority of any sheriff,  
8 county commission or court to ensure compliance with the provisions of §62-11B-1 *et seq.* of this  
9 code who engages in sexual intercourse, sexual intrusion or sexual contact with a person who is  
10 incarcerated in this state is guilty of a felony and, upon conviction thereof, shall be confined in a  
11 state correctional facility under the control of the Commissioner of Corrections for not less than  
12 one nor more than five years or fined not more than \$5,000.

13 (b) Any person employed by the Division of Corrections and Rehabilitation as a parole  
14 officer or by the West Virginia Supreme Court of Appeals as an adult or juvenile probation officer,  
15 or any person working at an alternative sentence program operated by a community criminal  
16 justice board as provided under W.Va. Code §62-11C-6 who engages in sexual intercourse,

17 sexual intrusion or sexual contact with a person said ~~parole officer or probation officer~~ employee  
18 is charged as part of his or her employment with supervising, is guilty of a felony and, upon  
19 conviction thereof, shall be confined in a state correctional facility under the control of the  
20 Commissioner of Corrections and Rehabilitation for not less than one nor more than five years or  
21 fined not more than \$5,000, or both.

22 (c) The term "incarcerated in this state" for purposes of this section includes in addition to  
23 its usual meaning, offenders serving a sentence under the provisions of article §62-11B-1 *et seq.*  
24 of this code.

25 (d) Authorized pat-down, strip search or other security related tasks does not constitute  
26 sexual contact pursuant to this section.

NOTE: The purpose of this bill is to include employees and contract employees of a day report center to those prohibited from engaging in sexual acts with those persons under their supervision.

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