

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Introduced**

## **Senate Bill 601**

BY SENATOR TRUMP

[Introduced February 13, 2019; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §15A-4-17 of the Code of West Virginia, 1931, as amended, relating  
2 to mandatory supervision of adult inmates; authorizing the Commissioner of the Division  
3 of Corrections and Rehabilitation to develop mandatory supervised release plans;  
4 authorizing the early release of inmates subject to the conditions of a mandatory  
5 supervised release plan; providing for return of inmates to a correctional facility for  
6 violations of the conditions of mandatory supervised release plans; providing that inmates  
7 on mandatory supervised release are considered to be on parole; clarifying that mandatory  
8 supervised release is not a commutation of sentence or any other form of clemency; and  
9 providing that mandatory supervised release concludes upon completion of the minimum  
10 expiration of sentence.

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

#### **ARTICLE 4. CORRECTIONS MANAGEMENT.**

##### **§15A-4-17. Deduction from sentence for good conduct; mandatory supervision.**

1 (a) All current and future adult inmates sentenced to a felony and, placed in the custody  
2 of the division, except those committed pursuant to §25-4-1 *et seq.*, of this code, shall be granted  
3 commutation from their sentences for good conduct in accordance with this section: *Provided,*  
4 That nothing in this section shall be considered to recalculate the “good time” of inmates currently  
5 serving a sentence or of giving back good time to inmates who have previously lost good time  
6 earned for a disciplinary violation, except for those inmates currently serving a sentence for a  
7 misdemeanor.

8 (b) The commutation of sentence, known as “good time”, shall be deducted from the  
9 maximum term of indeterminate sentences or from the fixed term of determinate sentences.

10 (c) Each inmate committed to the custody of the commissioner and incarcerated in a  
11 facility pursuant to that commitment shall be granted one day good time for each day he or she is  
12 incarcerated, including any and all days in jail awaiting sentence which are credited by the  
13 sentencing court to his or her sentence pursuant to §61-11-24 of this code or for any other reason

14 relating to the commitment. An inmate may not be granted any good time for time served either  
15 on parole or bond or in any other status when he or she is not physically incarcerated.

16 (d) An inmate sentenced to serve a life sentence is not eligible to earn or receive any good  
17 time pursuant to this section.

18 (e) An inmate under two or more consecutive sentences shall be allowed good time as if  
19 the several sentences, when the maximum terms of the consecutive sentences are added  
20 together, were all one sentence.

21 (f) The commissioner shall promulgate disciplinary rules and policies. The rules and  
22 policies shall describe acts that inmates are prohibited from committing, procedures for charging  
23 individual inmates for violation of the rules, and for determining the guilt or innocence of inmates  
24 charged with the violations, and the sanctions which may be imposed for the violations. A copy of  
25 the rules shall be given to each inmate. For each violation, by a sanctioned inmate, any part or all  
26 of the good time which has been granted to the inmate pursuant to this section may be forfeited  
27 and revoked by the superintendent of the institution in which the violation occurred. The  
28 superintendent when appropriate and with approval of the commissioner, may restore any  
29 forfeited good time.

30 (g) Each inmate, upon his or her commitment to, and being placed into the custody of the  
31 commissioner, or upon his or her return to custody as the result of violation of parole pursuant to  
32 §62-12-19 of this code, shall be given a statement setting forth the term or length of his or her  
33 sentence or sentences and the time of his or her minimum discharge computed according to this  
34 section.

35 (h) Each inmate shall be given a revision of the statement described in §15A-4-17(g) of  
36 this code when any part or all of the good time has been forfeited and revoked or restored  
37 pursuant to §15A-4-17(f) of this code, by which the time of his or her earliest discharge is changed.

38 (i) The superintendent may, with the approval of the commissioner, allow extra good time  
39 for inmates who perform exceptional work or service.

40 (j) There shall be no grants or accumulations of good time or credit to any current or future  
41 inmate serving a sentence in the custody of the Division of Corrections and Rehabilitation except  
42 in the manner provided in this section.

43 (k) Prior to the calculated discharge date of an inmate serving a sentence for a felony  
44 crime of violence against the person, a felony offense where the victim was a minor child or a  
45 felony offense involving the use of a firearm, one year shall be deducted from the inmate's  
46 accumulated good time to provide for one year of mandatory post-release supervision following  
47 the first instance in which the inmate reaches his or her calculated discharge date. All inmates  
48 released pursuant to this subsection shall be subject to electronic or GPS monitoring for the entire  
49 period of supervision. The provisions of this subsection are applicable to offenses committed on  
50 or after July 1, 2013.

51 ~~(l) Upon sentencing of an inmate for a felony offense not referenced in §15A-4-17(k) of~~  
52 ~~this code, the court may order that 180 days of the sentence, or some lesser period, be served~~  
53 ~~through post-release mandatory supervision if the court determines supervision is appropriate~~  
54 ~~and in the best interest of justice, rehabilitation, and public safety. All inmates released pursuant~~  
55 ~~to this subsection shall be subject to electronic or GPS monitoring for the entire period of~~  
56 ~~supervision. The provisions of this subsection are applicable to offenses committed on or after~~  
57 ~~July 1, 2013~~ The commissioner may develop a mandatory supervised release plan for an inmate  
58 -serving a sentence for a felony offense not referenced in §15-4-17(k) of this code who has not  
59 been granted discretionary parole 180 days prior to the inmate's minimum expiration of sentence,  
60 which may include electronic monitoring as a condition of release. The inmate may be released  
61 to and subject to a period of mandatory supervision of 180 days when he or she is 180 days from  
62 his or her minimum expiration of sentence.

63 (1) An inmate on mandatory supervised release pursuant to this subsection may be  
64 returned by the commissioner to a correctional facility for violation of the conditions of supervision

65 and may not again be eligible for mandatory supervised release during the same period of  
66 incarceration.

67 (2) An inmate on mandatory supervised release shall be considered released on parole.

68 (3) Mandatory supervised release is not a commutation of sentence or any other form of  
69 clemency.

70 (4) Subject to subdivision (1) of this subsection, the period of mandatory supervised  
71 release shall conclude upon completion of the minimum expiration of sentence.

72 (m) The commissioner shall adopt policies and procedures to implement the mandatory  
73 supervision provided for in §15A-4-17(k) and §15A-4-17(l) of this code, which may include terms,  
74 conditions, and procedures for supervision, modification, and violation applicable to persons on  
75 parole.

76 (n) As used in this section, “felony crime of violence against the person” means felony  
77 offenses set forth in §61-2-1 *et seq.*, §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, or §61-8D-1 *et seq.*, of  
78 this code, and the felony offenses of arson and burglary of a residence where an individual is  
79 physically located at the time of the offense as set forth in §61-3-1 *et seq.*, of this code.

80 (o) As used in this section, “felony offense where the victim was a minor child” means any  
81 felony crime of violence against the person and any felony offense set forth in §61-8-1 *et seq.*,  
82 §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.*, of this code.

NOTE: The purpose of this bill is to require mandatory supervised release for certain inmates in the custody of the Division of Corrections and Rehabilitation.

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