

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2276

FISCAL
NOTE

BY DELEGATES D. KELLY AND FAST

[Introduced February 10, 2021; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §5-1-10 of the Code of West Virginia, 1931, as amended, relating
 2 to the authorization of the Governor to seek the return of fugitives when found in another
 3 state or the District of Columbia; providing for return of persons who have been improperly
 4 released from confinement; and updating terms, titles, and cross-references.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. THE GOVERNOR.

§5-1-10. Return of fugitive from this state.

1 (a) Whenever the Governor of this state shall demand a person charged with crime, or
 2 ~~with escaping~~ who has escaped from confinement, or ~~breaking~~ has violated the terms of ~~his~~ the
 3 person's bail, probation, or parole in this state, or has been improperly released from confinement,
 4 from the executive authority of any other state, or from the chief justice or an associate justice of
 5 the supreme court of the District of Columbia authorized to receive such demand under the laws
 6 of the United States, ~~he~~ the Governor shall issue a warrant under the great seal of this state
 7 affixed thereon by the Secretary of State, to some agent, commanding him or her to receive the
 8 person so charged if delivered to him or her and to convey him or her to the proper officer of the
 9 county in this state in which the offense was committed.

10 (b) When the return to this state of a person charged with crime in this state is required,
 11 the prosecuting attorney shall present to the Governor his or her written application for a
 12 requisition for the return of the person charged, in which application shall be stated the name of
 13 the person so charged, the crime charged against him, the approximate time, place and
 14 circumstances of its commission, the state in which he or she is believed to be, including the
 15 location of the accused therein, at the time the application is made, and certifying that, in the
 16 opinion of the said prosecuting attorney, the ends of justice require the arrest and return of the
 17 accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

18 (c) When the return to this state is required of a person who has been previously convicted
 19 of a crime in this state and has escaped from confinement, has been improperly released from

20 confinement, or ~~broken~~ has violated the terms of his or her bail, probation or parole, the
21 prosecuting attorney of the county in which the offense was committed, the Parole Board, or the
22 ~~warden of the institution~~ commissioner of the Division of Corrections and Rehabilitation, or sheriff
23 of the county, from which escape was made, shall present to the Governor a written application
24 for a requisition for the return of such person, in which application shall be stated the name of the
25 person, the crime of which ~~he~~ the person was convicted, the circumstances of his or her escape
26 from confinement or of the breach of the terms of his or her bail, probation or parole, the state in
27 which ~~he~~ the person is believed to be, including the location of the person therein at the time
28 application is made.

29 (d) The application shall be verified by affidavit, shall be executed in duplicate and shall
30 be accompanied by either: pursuant to subsection (b) of this section, two certified copies of the
31 indictment returned or information and affidavit filed, or, pursuant to subsection (c) of this section,
32 two certified copies of the complaint made to the judge or justice, stating the offense with which
33 the accused is charged, or the judgment of conviction or of the sentence. The prosecuting
34 attorney, Parole Board, ~~warden~~ commissioner of the Division of Corrections and Rehabilitation or
35 sheriff may also attach such further affidavits and other documents in duplicate as he or she shall
36 deem proper to be submitted with such application. One copy of the application, with the action
37 of the Governor indicated by endorsement thereon, and one of the certified copies of the
38 indictment, complaint, information, and affidavits, or of the judgment of conviction or of the
39 sentence shall be filed in the office of the Secretary of State, to remain of record in that office.
40 The other copies of all papers shall be forwarded with the Governor's requisition.

NOTE: The purpose of this bill is to update provisions authorizing the Governor to seek the return of fugitives who have been convicted of a crime, have violated bail, probation, or parole, or have been improperly released from confinement when those persons flee to another state or to the District of Columbia.

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