

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Originating

House Bill 3304

BY CAPITO, PUSHKIN, L. PACK, LOVEJOY, QUEEN, FAST,

WESTFALL, FLUHARTY, BRUCE, PINSON AND WARD

[Introduced March 23, 2021; originating in the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto a new article,
2 designated §25-8-1, §25-8-2, §25-8-3, §25-8-4, §25-8-5, §25-8-6, §25-8-7, §25-8-8 and
3 §25-8-9, all relating to establishing a Reentry and Transitional Housing Programs;
4 providing reentry and transitional service centers for the delivery of reentry residences and
5 programs for criminal offenders; providing the purpose and legislative findings;
6 authorizing the commissioner of the Division of Corrections and Rehabilitation to establish
7 the program; defining terms; providing eligibility criteria for offenders to participate in the
8 program; authorizes the commissioner to promulgate legislative rules; placing conditions
9 and limitations on eligibility for referrals to the programs and exceptions thereto; providing
10 criteria for the division to develop policies and procedures providing for reporting,
11 performance review and recommendations to assess and improve the program; providing
12 for financial costs to be held by the state for the cost of the program, and placing limitations
13 thereto; to administer the program; offering transitional programs to provide structured
14 release and proper supervision, providing for and partnering with private and nonprofit
15 facilities to provide transitional services.

Be it enacted by the Legislature of West Virginia:

CHAPTER 25. DIVISION OF CORRECTIONS.

ARTICLE 8. Reentry and Transitional Services Program.

§25-8-1. Purpose of article and legislative findings.

1 (a) Purpose. The purpose of this article is to establish a program of Reentry and
2 Transitional Housing that will encourage reentering offenders to become responsible, productive
3 citizens by providing transitional housing and access to resources within a community setting
4 designed to help reintegrate formerly incarcerated persons; including but not limited to; assistance
5 with academic education, social skills, education, self-discipline programs, substance abuse
6 treatment, employment, vocational education and counseling. It is the aim of the Legislature that

7 such a program will create a more positive environment for offenders, correctional and non-
8 correctional staff who operate the reentry and transitional services; and that will reduce the
9 recidivism rates.

10 (b) *Legislative findings.* This article shall be liberally construed to accomplish the intent
11 and purposes of the Legislature in adopting it and shall be the sole authority required for the
12 accomplishment of the purposes set forth in this article. The Legislature finds that the primary
13 benefits of reentry and transitional services are as follows:

14 (1) *Increased public protection.* One of the main reasons for referring an offender to a
15 Reentry and Transitional Housing Program is to increase public protection by aiding the transition
16 of the offender into the community. Participating in community-based transitional services may
17 reduce the likelihood of an offender with limited resources from recidivating, whereas an offender
18 who is released directly from the institution to the community may return to a criminal lifestyle.
19 While offenders who present a substantial risk of harm should be separated from the community
20 until completing their sentences, other eligible offenders should generally be referred to Reentry
21 and Transitional Housing to maximize the chances of successful reintegration into society while
22 still under supervision of the West Virginia Division of Corrections and Rehabilitation.

23 (2) *Transitional environment for offender.* Reentry and Transitional Housing and
24 supervision provide an excellent transitional environment for offenders nearing the end of their
25 sentences. The level of structure and supervision assures accountability and program
26 opportunities in employment counseling and placement, substance abuse, and daily life skills.

27 (3) *Cost savings.* Cost savings generated by moving to a Reentry and Transitional
28 Services program could generate a 25% or greater decrease in overall cost of imprisonment for
29 the last 6 months of an offender's sentence. This in turn could create a surplus and greater
30 savings for the state.

31 (4) Reduction of Jail overcrowdings and County debt. Reentry and Transitional Housing
32 could also improve the problems associated with, and resulting from, Jail overcrowdings and
33 County debt incurred from local communities from parole and probation violators.

34 (5) Job creation and business development opportunities. These would include business
35 development for reentry and transitional service providers as well as opportunities in recovery
36 counseling and peer support mechanisms as well as social work programs and positions for
37 workers in these programs. Expanded areas in education, vocational services as well as
38 opportunities in recovery counseling and peer support mechanisms as well as social work
39 programs and positions for workers in these programs. Expanded areas in education, vocational
40 services as well.

41 (d) This program would also involve the establishment of partnering with non-profit
42 organization(s), i.e. private contractor(s) that would work in conjunction and oversee the
43 operations and execution of programs and centers as directed by the Division. They would also
44 be charged with job of establishing a network of community resources and other connections
45 through collaborative community councils in designated areas of the state; to conduct monthly
46 meetings and arrange facility appointments to meet the needs of reentering offenders.

§25-8-2. Authorization to establish reentry and transitional services program.

1 The Commissioner of the Division of Corrections and Rehabilitation is hereby authorized
2 to establish a program of reentry and transitional housing that may be used for eligible offenders
3 who are sentenced to serve a term of imprisonment under the custody of the commissioner and
4 whom the commissioner, may permit to serve, at or near the end of the offender's sentenced
5 term, the remaining portion of said term in a designated reentry and transitional housing facility.

§25-8-3. Definitions.

1 As used in this article, unless the context clearly requires a different meaning, the term:

2 (a) "Commissioner" means the commissioner of the Division of Corrections and
3 Rehabilitation.

4 (b) "Division" means Division of Corrections and Rehabilitation; and

5 (c) "Eligible offender" means eligible offender as defined in section four of this article.

§25-8-4. Eligibility.

1 (a) Offenders who have been sentenced to the custody of the Commissioner of the West
2 Virginia Division of Corrections and Rehabilitation may participate in the Reentry and Transitional
3 Housing Program ~~they are~~ in accordance with eligibility criteria established by the Commissioner.

4 (b) Any placement in reentry and transitional housing shall be subject to the funds
5 appropriated, and outlined in section eight of this article and subject to the availability of space in
6 the reentry and transitional service: *Provided*, That nothing in this section shall give any court the
7 power to hold the Division or any officer or employee of the division in contempt of court for failure
8 to adhere to a circuit court directive that a person be placed in the state reentry and transitional
9 services program if space or funding is unavailable.

§25-8-5. Limitations On Eligibility For All Reentry And Transitional Services Referrals.

1 (a) The following categories of persons shall not ordinarily participate in reentry and
2 transitional services programs:

3 (1) Offenders who require inpatient medical, psychological, or psychiatric treatment.

4 (2) Offenders who refuse to participate in the Offender Financial Responsibility Program.

5 (3) Offenders with unresolved pending charges.

6 (4) Ordinarily, offenders serving sentences of six months or less.

7 (5) Offenders who refuse to participate in the Institution Release Preparation Program.

8 (6) Offenders whose current offense or behavioral history poses a significant risk of harm
9 to the community. These could include, but are not necessarily limited to, an offender who has a
10 history of repetitive violence, or escape from a secure facility using force, or association with
11 violent or terrorist organizations.

12 (7) Offenders whose admission and release status are pretrial or holdover.

§25-8-6. Internal policy development.

1 (a) The Division shall develop operational procedures and policies for the program which
2 shall require that the program partner with and establish external contracting procedures with
3 external contractors to be established at multiple sites, which sites shall then subject to the control
4 and authority of the Division. The program shall consist of the following opportunities as deemed
5 appropriate for each eligible offender whom the division permits to serve his or her sentence as
6 a sentence to reentry and transitional housing.

7 (1) A period of Imprisonment at a reentry and transitional house of no more ~~less~~ than 180
8 days or 6 months prior to release of sentence which period of Imprisonment should consist of but
9 not be limited to substance abuse education or programming, employment, employment skills
10 training as available and as deemed necessary, social skills training, and psychological evaluation
11 and treatment. Additionally, the state Board of Education and State Superintendent of Schools,
12 pursuant to section five, article twenty, chapter eighteen of this code, respectively, may, as funds
13 are available, establish an education program for those eligible offenders who are not recipients
14 of a high school diploma or a certificate of high school equivalence.

15 (b) Offenders with medical conditions or disabilities may also be considered for reentry
16 and transitional services placement. Offenders are required to assume financial responsibility for
17 their health care or be eligible for Medicaid while assigned to reentry and transitional services
18 programs. Such offenders must provide sufficient evidence to institution staff of their ability to pay
19 for health care while at a reentry and transitional services prior to the referral being made. When
20 an offender is unable or unwilling to bear the cost of necessary health care, the offender shall be
21 denied placement.

22 (c) Upon successful completion of the reentry and transitional services program, and
23 notwithstanding any other provisions for determining parole eligibility, an offender shall be
24 released on parole in accordance with this article.

25 (d) The policies and procedures for the reentry and transitional housing program also shall
26 include, but are not limited to, all of the following:

27 (1) Policies and procedures identifying the facilities subject to the control and authority of
28 the Division that will be used for offenders serving a sentence to reentry and transitional services.

29 (2) Policies and procedures establishing criteria the commissioner deems necessary to
30 determine the eligibility of offenders to serve the remainder of their sentences as a sentence to
31 reentry and transitional housing.

32 (3) Any other policies and procedures that are necessary for the proper operation of the
33 program.

34 (e) An eligible offender who does not satisfactorily complete the entire period of the
35 reentry and transitional housing portion of his or her imprisonment, shall be removed from the
36 program of reentry and transitional housing and shall be required to serve the remainder of the
37 original sentence of imprisonment at a facility to be designated by the Division of Corrections and
38 Rehabilitation.

§25-8-7. Reporting requirements; performance audit.

1 The reentry and transitional housing program shall be subject to a performance audit
2 thereon, pursuant to the provisions of article ten, chapter four of this code, five years after the
3 effective date of the creation thereof, together with allowance for subsequent periods applicable
4 to the winding up of the affairs of such reentry and transitional services program.

5 (a) A summary of the program as initially established, a summary of all changes in the
6 program made during the period covered by the audit and the reasons for the changes, and a
7 summary of the program as it exists on the date of the preparation of the audit.

8 (b) A summary of the effectiveness of the program.

9 (c) An analysis of the total cost of the program, of its cost per offender who was permitted
10 to serve a sentence to reentry and transitional services and who served the entire sentence to

11 reentry and transitional services, and of its cost per offender who was permitted to serve a
12 sentence to reentry and transitional services.

13 (d) A summary of the standards and criteria used by the division in determining which
14 eligible offenders were permitted to serve their sentence of imprisonment as a sentence to reentry
15 and transitional services.

16 (e) A summary of the characteristics of the eligible offenders who were permitted to serve
17 their sentence of imprisonment as a sentence to reentry and transitional services, which summary
18 shall include, but not be limited to, a listing of every offense of which any such eligible offender
19 was convicted or to which any such eligible offender pleaded guilty and in relation to which he or
20 she served a sentence to reentry and transitional services, and the total number of such eligible
21 offenders who were convicted of or pleaded guilty to each such offense;

22 (f) A listing of the number of eligible offenders who were permitted to serve a sentence to
23 reentry and transitional services and who did not serve the entire sentence to reentry and
24 transitional services, and, to the extent possible, a summary of the length of the terms of
25 imprisonment served by such eligible offenders after they were removed from the program.

26 (g) A summary of the effect of the program on overcrowding at correctional facilities under
27 the control and authority of the division of corrections.

28 (h) To the extent possible, an analysis of the rate of the recidivism of eligible offenders
29 who were permitted to serve a sentence to reentry and transitional services and who served the
30 entire sentence to reentry and transitional services.

31 (i) Recommendations as to legislative changes to the program that would assist in its
32 operation or that could further alleviate overcrowding at correctional facilities, and
33 recommendations as to whether the program should be expanded.

§25-8-8. Funding and financial implications.

1 The funding for the reentry and transitional housing shall be derived from the state's
2 general revenue fund or the budget assigned annually to the Division. Distribution amounts are

3 not to exceed 75% of cost of daily incarceration rate per individual offender. During their stay,
4 offenders will be required to pay a subsistence charge to help defray the cost of their confinement;
5 this charge is 25% of their net income. Failure to make subsistence payments may result in
6 disciplinary action.

§25-8-9. Community-Based Programs.

1 (a) Reentry and Transitional Service Centers (RTSCs) are commonly referred to as
2 “halfway houses,” and provide suitable residence, structured programs, job placement, and
3 counseling, while the offenders’ activities are closely monitored. All RTSCs offer drug testing and
4 counseling for alcohol and drug-related problems. These facilities, would be located throughout
5 West Virginia and provide two program components: The Community Corrections Component
6 and the Prerelease Component:

7 (1) The Community Corrections Component is designed as the most restrictive option.
8 Except for employment and other structured program activities, an offender in this component is
9 restricted to the RTSC. An offender shall ordinarily be placed in the Community Corrections
10 Component upon arrival at the RTSC. This orientation period would normally last for two weeks
11 or until the offender has demonstrated to RTSC staff the responsibility necessary to function in
12 the community. Based on their professional judgment, RTSC staff shall determine when an
13 offender is prepared to advance to the Prerelease Component.

14 (2) The Prerelease Component is designed to assist offenders making the transition from
15 an institution setting to the community. These offenders have more access to the community and
16 family members. In addition, a RTSC may also have an intensive treatment component consisting
17 of substance abuse education and treatment, life skills training, mental health counseling,
18 education, employment assistance, and mentoring.

NOTE: The purpose of this bill is to authorize the Commissioner of the Division of Corrections and Rehabilitation to establish a program of reentry and transitional services that may be used for eligible offenders who are sentenced to serve a term of imprisonment under the custody of the Division of Corrections and Rehabilitation whom the Commissioner or the circuit court may permit to serve his or her sentence as a sentence to reentry and transitional services to cut the costs of confinement and promote transition of the offender into society.

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