

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Introduced

### House Bill 5319

FISCAL  
NOTE

By Delegates Kelly, Hott, Ward, Kump, Fehrenbacher,  
Mallow, Holstein, Pinson, Shamblin, Kirby, and  
Westfall

[Introduced January 29, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §61-5-17b, all relating to creating the offense of exposing a law-enforcement  
 3 officer, probation officer, parole officer, courthouse security officer, correctional officer, the  
 4 State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical  
 5 service personnel to opioids; creating the offense of exposing a law-enforcement officer,  
 6 probation officer, parole officer, courthouse security officer, correctional officer, the State  
 7 Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service  
 8 personnel to opioids causing death; creating the offense of exposing a law-enforcement  
 9 officer, probation officer, parole officer, courthouse security officer, correctional officer, the  
 10 State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical  
 11 service personnel to opioids causing bodily injury; requiring proof of a violation of this code;  
 12 establishing criminal penalties; requiring proof of exposure; and providing definitions.

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

**ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

**§61-5-17b. Exposing a law-enforcement officer, probation officer, parole officer,  
 courthouse security officer, correctional officer, the State Fire Marshal, a deputy or  
 assistant fire marshal, firefighter, or emergency medical service personnel to  
 opioids; \_\_\_\_\_ penalties.**

1 (a) Notwithstanding any provision of this code to the contrary, any person who commits any  
 2 act in violation of any of the provisions of §60A-4-401 et seq. of this code or any provision of §61-5-  
 3 8 of this code and thereby proximately causes the death of a law-enforcement officer, probation  
 4 officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a  
 5 deputy or assistant fire marshal, firefighter, or emergency medical service personnel lawfully  
 6 acting in his or her official capacity as a result of exposure of any such persons to opioids used or  
 7 possessed in the commission of the act is guilty of a felony, and upon conviction thereof, shall be  
 8 imprisoned in a state correctional facility for a term of 15 years to life.

9           (b) Notwithstanding any provision of this code to the contrary, any person who commits any  
10 act in violation of any of the provisions of §60A-4-401 et seq. of this code or any provision of §61-5-  
11 8 of this code and thereby proximately causes the bodily injury of a law-enforcement officer,  
12 probation officer, parole officer, courthouse security officer, correctional officer, the State Fire  
13 Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel  
14 lawfully acting in his or her official capacity as a result of exposure of any such persons to opioids  
15 used or possessed in the commission of the act is guilty of a felony, and upon conviction thereof,  
16 shall be imprisoned in a state correctional facility for a term of not less than three nor more than 15  
17 years.

18           (c) For purposes of this section:

19           "Bodily injury" means substantial physical pain, illness, or any impairment of physical  
20 condition, including, but not limited to, loss of consciousness or other symptoms of an opioid  
21 overdose which result in the immediate administration of an opioid antagonist medication.

22           "Death" means the death of any law-enforcement officer, probation officer, parole officer,  
23 courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire  
24 marshal, firefighter, or emergency medical service personnel which ensues within one year as a  
25 proximate result of a bodily injury received in violation of this section.

26           "Exposure" includes without limitation skin contact, inhalation, ingestion, or contact with a  
27 needlestick or a mucus membrane, including without limitation the mouth, eyes, or nose. Proof of  
28 exposure shall be based on a confirmed positive test for opioids administered by a medical  
29 professional immediately following the death or bodily injury of the law-enforcement officer,  
30 probation officer, parole officer, courthouse security officer, correctional officer, the State Fire  
31 Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel.

32           "Law-enforcement officer" has the same definition as that term is defined in §30-29-1 of  
33 this code, except for purposes of this section, "law-enforcement officer" shall additionally include  
34 those individuals defined as "chief executive", "law-enforcement official", and "pre-certified law-

35 enforcement officer" in §30-29-1 of this code.

36 "Opioid" means drugs that are members of the natural and synthetic opium family,  
37 including, but not limited to, heroin, morphine, codeine, methadone, oxycodone, hydrocodone,  
38 hydromorphone, fentanyl, and carfentanil.

39 The offenses set forth in this section shall be in addition to any other offenses set forth in  
40 this code.

NOTE: The purpose of this bill is to create the offense of exposing a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel to opioids.

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