WEST VIRGINIA CODE: §61-11-8A

§61-11-8a. Solicitation to commit certain felonies; classification; defenses.

(a) Any person who solicits another to commit a violation of the law which constitutes a felony crime of violence against the person is guilty of a felony and, upon conviction thereof, shall be:

(1) Confined in a state correctional facility for not less than three nor more than fifteen years if the offense solicited is punishable by life imprisonment;

(2) Imprisoned in the state correctional facility for not less than one nor more three years or fined not more than $5,000, or both, if the offense solicited is punishable by incarceration in the state correctional facility for a term of less than life imprisonment. In the circuit court's discretion a person so convicted may be ordered confined in jail for a term not to exceed one year in lieu of incarceration in a state correctional facility;

(b)(1) As used in this section, "solicitation" means the willful and knowing instigation or inducement of another to commit a felony crime of violence against the person of a third person; and

(2) As used in this section, "felony crime of violence against the person" means the felony offense set forth in sections one, nine, ten-b and twelve, article two of this chapter.

(c) In a prosecution under the provisions of this section, it is not a defense:

(1) That the defendant belongs to a class of persons who by definition are legally incapable in an individual capacity of committing the crime that is the object of the solicitation; or

(2) That a person whom the defendant solicits could not be guilty of a crime that is the object of the solicitation.

(d) It is an affirmative and complete defense to a prosecution under the provisions of this section that the defendant under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent, after soliciting another person to engage in conduct constituting a felony, prevented the commission of the crime.

WV Legislature