# WEST VIRGINIA CODE: §61-14-7

**§61-14-7. General provisions and other penalties.**

(a) Separate violations. — For purposes of this article, each adult or minor victim constitutes a separate offense.

(b) Aggravating circumstance. —

(1) Notwithstanding any provision of this code to the contrary, if an individual is convicted of an offense under this article and the trier of fact makes a finding that the offense involved an aggravating circumstance, the individual is not eligible for parole before serving five years in a state correctional facility when the sentence is of an indeterminate nature.

(2) Notwithstanding any provision of this code to the contrary, if an individual is convicted of an offense under this article in which the victim is a minor, that individual is not eligible for parole.

(3) For purposes of this subsection, "aggravating circumstance" means any of the following:

(A) The individual recruited, enticed, or obtained the victim from a shelter or facility that provides services to runaway youth, children in foster care, the homeless, or victims of human trafficking, domestic violence, or sexual assault; or

(B) The human trafficking or smuggling offense involved one or more of the following:

(i) The use of a deadly weapon, or the threat of use of a deadly weapon;

(ii) Bodily injury or disfigurement to any individual who was trafficked or smuggled;

(iii) The commission of a sexual offense against any individual who was trafficked or smuggled, or causing individuals being trafficked or smuggled to become a victim of a sexual offense; or

(iv) Causing any individual to engage in sexual servitude.

(c) Restitution. —

(1) The court shall order a person convicted of an offense under this article to pay restitution to the victim of the offense. Restitution may also be awarded to any third parties, public or private, who incurred costs as a result of any offense under this article.

(2) A judgment order for restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action in accordance with §61-11A-4 of this code, including filing a lien against the person, firm, or

WV Legislature

corporation against whom restitution is ordered.

(3) The court shall order restitution under subdivision (1) of this subsection even if the victim is unavailable to accept payment of restitution.

(4) If the victim does not claim restitution ordered under subdivision (1) of this subsection within five years of the entry of the order, the restitution shall be paid to the Crime Victims Compensation Fund created under §14-2A-4 of this code.

(d) Eligibility for Compensation Fund. — Notwithstanding the definition of victim in §14-2A-3 of this code, a victim of any offense under this article is a victim for all purposes of §14-2A-1 *et seq.* of this code: *Provided*, That for purposes of §14-2A-1(b) of this code, if otherwise qualified, a victim of any offense under this article may not be denied eligibility solely for the failure to report to law enforcement within the designated time frame.

(e) Law Enforcement Notification. —If a law-enforcement officer encounters a child who reasonably appears to be a victim of an offense under this article, the officer shall notify the Department of Human Services. If available, the Department of Human Services may notify the Domestic Violence Program serving the area where the child is found.

(f) Forfeiture; Debarment. —

(1) The following are declared to be contraband and no person shall have a property interest in them:

(A) All property which is directly or indirectly used or intended for use in any manner to facilitate a violation of this article; and

(B) Any property constituting or derived from gross profits or other proceeds obtained from a violation of this article.

(2) In any action under this section, the court may enter such restraining orders or take other appropriate action, including acceptance of performance bonds, in connection with any interest that is subject to forfeiture.

(3) Forfeiture actions under this section shall use the procedure set forth in article §60A-7-1 *et seq.* of this code.

(4) Any person or business entity convicted of a violation of this article shall be debarred from state or local government contracts.

WV Legislature