WEST VIRGINIA CODE CHAPTER 62 ARTICLE 8

WV Legislature

§62-8-1. Offenses by inmates; conspiracy.

(a) A person imprisoned or otherwise in the custody of the Commissioner of Corrections and Rehabilitation is guilty of a felony if he or she kills, wounds, or inflicts other bodily injury upon any person at any correctional facility; or breaks, cuts, or injures, or sets fire to any building, fixture, or fastening of any correctional facility, or jail or any part thereof, for the purpose of escaping or aiding any other inmate to escape therefrom, or renders any correctional facility or jail less secure as a place of confinement; or makes, procures, secretes, or has in his or her possession, any instrument, tool, or other thing for such purpose, or with intent to kill, wound, or inflict bodily injury; or resists the lawful authority of an officer or guard of any correctional facility or jail for such purpose or with such intent. Any three or more inmates confined, or in custody, who conspire together to commit any offense mentioned in this section are each guilty of a felony.

(b) Any person in the custody of the Commissioner of Corrections and Rehabilitation who commits an act of bodily intrusion is guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than five years. As used in this subsection "bodily intrusion" means penetration, however slight, of the anus of a male or female or the sex organ of a female without his or her consent by means of forcible compulsion and for reasons other than the sexual gratification of either person.

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§62-8-2. Punishment of convicts; no discharge from correctional institution while prosecution is pending.

(a) Any inmate who violates the provisions of section one of this article and the violation results in the death of any person is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for life, and he or she shall not be eligible for parole, notwithstanding the provisions of article twelve, chapter sixty-two of this code.

(b) Any inmate who violates the provisions of section one of this article and is serving a term of confinement for life, is guilty of a felony and, upon conviction thereof, he or she may not be eligible for parole, notwithstanding the provisions of article twelve, chapter sixty-two of this code.

(c) Any inmate who is not serving a term of confinement for life and who violates the provisions of section one of this article and whose violation did not result in the death of any person is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility not less than one nor more than five years. Any term of confinement imposed pursuant to this subsection is to be consecutive to any term of confinement already imposed.

(d) An inmate prosecuted for an offense under this article may not be discharged from a state correctional facility while the prosecution is pending.

(e) Any person convicted pursuant to the provisions of this section may not be sentenced under sections eighteen or nineteen, article eleven, chapter sixty-one of this code: Provided, That if an inmate commits an offense punishable by confinement in a state correctional facility, other than the offenses defined in section one of this article, he or she shall be punished as if he or she had been discharged before committing the offense.

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§62-8-3. Venue of trials of convicts.

All criminal proceedings against convicts in the custody of the commissioner of corrections shall be in the circuit court in the county where the crime is committed.

WV Legislature

§62-8-4. Procedure in sentencing inmates to further confinement for second and third offenses.

When a inmate convicted of an offense and sentenced to confinement therefor in a state correctional facility, is received therein, if he or she was before convicted in the United States of a crime punishable by imprisonment in a state correctional facility, and the record of his or her conviction does not show that he or she has been sentenced under section eighteen or nineteen, article eleven, chapter sixty-one of this code, the warden of a state correctional facility may give information thereof, to the circuit court of the county in which the facility is located, whether it be alleged or not in the indictment on which he or she was convicted that he or she had before been previously so convicted. If such information is given, the court shall cause the inmate to be brought before it, and upon an information filed, setting forth the several records of conviction, and alleging the identity of the inmate with the person named in each, shall require the inmate named to say whether he or she is the same person or not. If he or she say he or she is not, or remain silent, his or her plea, or the fact of his or her silence, shall be entered of record, and a jury shall be impaneled to inquire whether the inmate is the same person mentioned in the several records. If the jury find that he or she is not the same person, he or she shall be remanded to a state correctional facility; but if they find that he or she is the same person, or if he or she acknowledge in open court, after being duly cautioned, that he or she is the same person, the court shall sentence him or her to such further confinement as is prescribed by article eleven, chapter sixty-one of this code, on a second or third conviction, as the case may be.

WV Legislature

§62-8-5. Prosecutions for offenses under this article.

Upon complaint in writing, under oath, presented to the circuit court of Marshall county, or to the judge thereof in vacation, that any convict in the penitentiary has committed an offense punishable under sections one and two of this article, proceedings may be had for such offense, either at a regular term of the court, or at a special term, to be appointed by its order, or by the warrant of the judge directed to the clerk of the court, who shall give notice of such special term to the prosecuting attorney and other officers of the court. The clerk shall issue all necessary process; and a grand jury and a venire shall be summoned to attend at the time appointed in such warrant, or at such time as the court may direct. The judge of the said court, when an indictment is found against the accused, shall issue a warrant to the warden of the penitentiary to bring him before the court, as well as any other persons confined in the penitentiary who are required as witnesses on either side.

WV Legislature

§62-8-6. Convicts competent as witnesses; proceedings, etc., as in other cases.

In any such prosecution of convicts, all other convicts in the penitentiary shall be competent witnesses for or against the accused. In all other respects, the proceedings, trial, judgment and sentence shall be had, pronounced and executed, as in other cases for prosecutions for offenses punishable with death or confinement in the penitentiary.

WV Legislature

§62-8-7. Court costs incurred in prosecution of convicts.

All taxable court costs incurred in the prosecution of a convict for any crime committed by such person while confined in the West Virginia Penitentiary, West Virginia Medium Security Prison, or the West Virginia State Prison for Women or in any other penal institution of the State of West Virginia, or in the custody of an officer thereof, or for the crime of escaping from any of such institutions, or such custody, or for any crime committed while at large after escaping from any such institution, or such custody, shall be paid out of the annual state appropriation for "criminal charges," after such are certified by the circuit court of the appropriate county and approved by the state commissioner of public institutions.

WV Legislature

§62-8-8. Orders and warrants for arrest of inmates; authorization to obtain arrest warrants.

(a) Notwithstanding any provision of this code to the contrary, the Commissioner of the Division of Corrections, or his or her designee, may issue an order of arrest for inmates who have been released from the custody of the division due to a clerical error, mistake or due to the failure of a sentencing court to timely transmit an order of commitment prior to the release of an inmate from the commissioner's custody or to the commissioner's custody. All law-enforcement officers shall honor and enforce orders of arrest in the same manner afforded warrants of arrest issued by magistrate or circuit courts notwithstanding any provision of this code to the contrary.

(b) The Commissioner of the Division of Corrections, or his or her designee, may file criminal complaints and obtain from a court of competent jurisdiction an arrest warrant for any inmate under commitment to the commissioner for service of a sentence of incarceration who has escaped from a facility or otherwise absconded from a furlough or temporary release.

(c) The Commissioner of the Division of Corrections, or his or her designee, may enter such orders of arrest or warrants referred to in this section into all criminal reporting databases and other computerized systems utilized by law enforcement for the reporting and apprehension of criminals and fugitives.

WV Legislature