

No. 1299

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984



ENROLLED

Com. Sub. for
HOUSE BILL No. 1299

(By Mr. Delegate Kiehlbusch)



Passed March 5, 1984

In Effect Ninety Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1299
(By DELEGATE WIEDEBUSCH)

(Originating in the House Committee on the Judiciary.)

[Passed March 5, 1984; in effect ninety days from passage.]

AN ACT to amend and reenact section eleven, article four, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections eight, nine, ten, eleven and twelve, article five, chapter sixty-one of said code, all relating to jails and penal, correctional and benevolent institutions and mental health facilities and offenses relating thereto generally; escape and aiding others to escape therefrom and various criminal penalties therefor; permitting persons confined in jails to escape and the criminal penalties therefor; rescue and the criminal penalties therefor; distinguishing between escapes prior to and after sentencing in certain cases and the criminal penalties for each; prohibiting the inducement to escape or the harboring of any inmate or patient of certain institutions or facilities and providing criminal penalties therefor; authorizing the return of such inmates or patients to such institutions or facilities; prohibiting trespassing or loitering upon the grounds of any such institution or facility or communicating with any inmate or patient therein and providing criminal penalties therefor; and prohibiting the purchase or acceptance of gift of certain property from any inmate or

patient of any such institution or facility and providing criminal penalties therefor.

Be it enacted by the Legislature of West Virginia:

That section eleven, article four, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections eight, nine, ten, eleven and twelve, article five, chapter sixty-one of said code, be amended and reenacted, all to read as follows:

CHAPTER 25. DEPARTMENT OF CORRECTIONS.

ARTICLE 4. CENTERS FOR HOUSING YOUTHFUL MALE LAW OFFENDERS.

§25-4-11. Escape; aiding escape.

1 Should any inmate of a center escape therefrom or from
2 the custody of an officer or employee of the center, he shall
3 be guilty of a felony, and, upon conviction thereof, shall be
4 imprisoned in the penitentiary not less than one nor more
5 than five years. Any person who knowingly permits or aids
6 any inmate of such center to escape therefrom or conceals
7 him with the intent of enabling him to elude pursuit is guilty
8 of a felony, and, on conviction, shall be punished in a like
9 manner as provided in this section for an inmate who escapes.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-8. Aiding adult or juvenile to escape from detention, imprisonment or custody; rescue; penalty.

1 Where any adult or juvenile is lawfully detained in custody
2 or as an inmate or prisoner in any jail or prison or as a
3 resident of any juvenile facility or juvenile detention center,
4 if any other person shall convey anything into the jail, prison,
5 facility or detention center or other place of custody of such
6 adult or juvenile with the intent to aid or facilitate such
7 adult's or juvenile's escape or attempted escape therefrom, or
8 if such other person shall forcibly rescue or attempt to rescue
9 such adult or juvenile therefrom, such other person shall be
10 guilty of a felony, and, upon conviction thereof, shall be

11 confined in the penitentiary not less than one nor more than
12 five years.

§61-5-9. Permitting escape; refusal of custody of prisoner; penalties.

1 If a jailer or other officer aid or voluntarily suffer a
2 prisoner convicted or charged with felony to escape from
3 his custody, he shall be guilty of a felony, and, upon con-
4 viction, shall be confined in the penitentiary not less than
5 one nor more than five years. If any such jailer or other
6 officer negligently, but not voluntarily, suffer a person con-
7 victed of or charged with felony, or voluntarily or negligently
8 suffer a person convicted of or charged with an offense not
9 a felony, to escape from his custody, or wilfully refuse to
10 receive into his custody any person lawfully committed there-
11 to, he shall be guilty of a misdemeanor, and, upon convic-
12 tion, shall be confined in jail not less than six months, or be
13 fined not exceeding one thousand dollars, or both such fine
14 and confinement.

§61-5-10. Jail breaking by convicted or unconvicted prisoner; penalties.

1 (a) Any person confined in jail on conviction of a criminal
2 offense, who escapes therefrom by force, violence, or by any
3 subterfuge, device or deception, shall, if previously sentenced
4 to confinement in the penitentiary, be guilty of a felony,
5 and, upon conviction, shall be confined in the penitentiary for
6 not less than one nor more than five years; and if he be
7 previously sentenced to confinement in jail, he shall be guilty
8 of a misdemeanor, and, upon conviction, shall be confined
9 in jail one year.

10 (b) If any person be lawfully confined in jail and not
11 sentenced on conviction of a criminal offense, shall escape
12 therefrom by any means, such person shall, (i) if he be con-
13 fined upon a charge of a felony, be guilty of an additional
14 felony, and, upon conviction thereof, shall be confined in the
15 penitentiary not less than one nor more than five years, or
16 (ii) if he be confined upon a charge of a misdemeanor, be
17 guilty of an additional misdemeanor, and, upon conviction
18 thereof, shall be confined in jail one year.

§61-5-11. Escapes and aiding in escapes; terms of confinement in addition to previous sentence.

1 The terms of confinement specified in section eleven, article
2 four, chapter twenty-five of this code or in sections eight,
3 nine and ten of this article shall be in addition to the period
4 or periods of confinement to which any person convicted
5 under this section may be subject to and shall commence at
6 the expiration of any such former sentence.

§61-5-12. Escapes from, and other offenses relating to, state benevolent and correctional institutions or mental health facilities; penalties.

1 Except where otherwise provided, whoever abducts any
2 person who is an inmate or patient of any state benevolent or
3 correctional institution or mental health facility shall be guilty
4 of a felony, and, upon conviction thereof, shall be imprisoned
5 in the penitentiary for not less than one nor more than five
6 years. Whoever persuades, induces or entices, or attempts
7 to persuade, induce or entice, any person who is an inmate
8 or patient of any such institution or facility to escape there-
9 from, or whoever conceals or harbors any such person, know-
10 ing him or her to have run away from any such institution or
11 facility, shall be guilty of a misdemeanor, and, upon con-
12 viction thereof, shall be fined not less than one hundred nor
13 more than one thousand dollars, and in addition thereto, in
14 the discretion of the court, may be imprisoned in the county
15 jail not less than one nor more than six months.

16 Any fugitive from any state benevolent or correctional
17 institution or mental health facility, may, on the order of the
18 superintendent or other officer of such institution or facility,
19 be arrested and returned to such institution or facility, or to
20 any officer or agent thereof, by any sheriff, police officer,
21 or other person, and may also be arrested and returned by
22 any officer or agent of such institution or facility.

23 Whoever trespasses, idles, lounges or loiters upon the
24 grounds of any other state benevolent or correctional institu-
25 tion or mental health facility or communicates, or attempts
26 to communicate, by signals, signs, writings or otherwise with

27 any inmate or patient of such institution or facility, or conveys
28 or assists in any way in establishing communication between
29 an inmate or patient of such institution or facility and any
30 person or persons outside thereof, except as authorized by
31 the rules or regulations in force by the authority governing the
32 same, shall be guilty of a misdemeanor, and, upon conviction,
33 shall be fined not less than twenty nor more than five hundred
34 dollars, or imprisoned not less than ten or more than thirty
35 days in the county jail, or both, in the discretion of the court
36 or magistrate. Whoever, with intent to defraud, purchases,
37 accepts as a gift, or secures by barter or trade, or in any
38 other manner, any article of clothing from an inmate or patient
39 of any state benevolent or correctional institution or mental
40 health facility issued to him or her, by any officer of such
41 institution or facility for his or her use, or, with such intent,
42 secures any other article or articles belonging to any inmate or
43 patient of such institution or facility or to such institution
44 or facility from an inmate or patient thereof, shall be guilty
45 of a misdemeanor, and, upon conviction thereof, shall be
46 fined a sum not less than double the value of such articles,
47 except that in no case shall the fine be less than one hundred
48 dollars. Magistrates shall have jurisdiction of all misde-
49 meanors included in this paragraph, concurrently with the
50 circuit court.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis

Chairman Senate Committee

Ronald Anello

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jed C. Hulse

Clerk of the Senate

Donald L. Goff

Clerk of the House of Delegates

Walter R. McEwen

President of the Senate

W. M. Lee Jr.

Speaker House of Delegates

The within is approved this the 30
day of March, 1984.

John D. Pender

Governor

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