

SB 1003

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WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1994



ENROLLED

SENATE BILL NO. 1003

(By Senator Wither)



PASSED March 15, 1994

In Effect 90 days from Passage

E N R O L L E D
Senate Bill No. 1003

(BY SENATOR WITHERS)

[Passed March 15, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact sections ten, twelve and twelve-a, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to crimes and their punishment; crimes against public justice; and criminal penalties for escape from jail or other confinement.

Be it enacted by the Legislature of West Virginia:

That sections ten, twelve and twelve-a, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

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

- 1 (a) Any person confined in jail on conviction of a
- 2 felony, who escapes therefrom by force, violence or by
- 3 any subterfuge, device or deception, is guilty of a felony,
- 4 and, upon conviction thereof, shall be confined in the

5 penitentiary for up to five years; and if he be confined in
6 jail on conviction of a misdemeanor, he is guilty of a
7 misdemeanor, and, upon conviction thereof, shall be
8 confined in jail not more than one year.

9 (b) If any person be lawfully confined in jail or private
10 prison and not sentenced on conviction of a criminal
11 offense, escape therefrom by any means, such person
12 shall: (i) If he be confined upon a charge of a felony, be
13 guilty of an additional felony, and, upon conviction
14 thereof, shall be confined in the penitentiary not more
15 than five years; or (ii) if he be confined upon a charge of
16 a misdemeanor, be guilty of an additional misdemeanor,
17 and, upon conviction thereof, shall be confined in jail not
18 more than one year.

19 (c) If any person is lawfully confined in a private
20 prison and escapes therefrom by force, violence or by
21 any subterfuge, device or deception, he or she shall be
22 guilty of a felony, and, upon conviction thereof, shall be
23 imprisoned for not more than five years.

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

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

16 discretion of the court, may be imprisoned in the county
17 jail not more than six months.

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

26 Whoever trespasses, idles, lounges or loiters upon the
27 grounds of any other state benevolent or correctional
28 institution, private prison or mental health facility or
29 communicates, or attempts to communicate, by signals,
30 signs, writings or otherwise with any inmate or patient
31 of such institution, private prison or facility, or conveys
32 or assists in any way in establishing communication
33 between an inmate or patient of such institution, private
34 prison or facility and any person or persons outside
35 thereof, except as authorized by the rules or regulations
36 in force by the authority governing the same, is guilty of
37 a misdemeanor, and, upon conviction thereof, shall be
38 fined not less than twenty nor more than five hundred
39 dollars, or imprisoned not more than thirty days in the
40 county jail, or both, in the discretion of the court or
41 magistrate. Whoever, with intent to defraud, purchases,
42 accepts as a gift, or secures by barter or trade, or in any
43 other manner, any article of clothing from an inmate or
44 patient of any state benevolent or correctional institu-
45 tion, private prison or mental health facility issued to
46 him or her, by any officer of such institution or facility,
47 or by any private correctional officer of such private
48 prison for his or her use, or, with such intent, secures any
49 other article or articles belonging to any inmate or
50 patient of such institution, private prison or facility or to
51 such institution, private prison or facility from an inmate
52 or patient thereof, is guilty of a misdemeanor, and, upon
53 conviction thereof, shall be fined a sum not less than
54 double the value of such articles, except that in no case

55 shall the fine be less than one hundred dollars.
56 Magistrates shall have jurisdiction of all misdemeanors
57 included in this paragraph, concurrently with the circuit
58 court.

§61-5-12a. Escape from custody of the commissioner of corrections.

1 Any person who escapes from the custody of the
2 commissioner of corrections, regardless of where such
3 person is confined or where such escape occurs, is guilty
4 of a felony, and, upon conviction thereof, shall be
5 imprisoned in the penitentiary not more than five years.
6 A term of imprisonment imposed pursuant to the
7 provisions of this section shall be imposed as a consecu-
8 tive sentence and shall not be served concurrently with
9 any imprisonment, confinement or detention imposed
10 under any prior sentence being served or otherwise being
11 discharged at the time such person commits an offense
12 under the provisions of this section. A person charged
13 with an offense under the provisions of this section shall
14 not be released from the custody of the commissioner of
15 corrections while the prosecution of the alleged offense
16 is pending: *Provided*, That time served by such person
17 after any other prior sentence has been served or
18 otherwise discharged shall be applied to any sentence
19 which may ultimately be imposed for an offense under
20 this section. Venue for the prosecution of a violation of
21 this section shall be in the county in which the escape
22 occurs.

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

[Handwritten signature]
.....
Chairman Senate Committee

[Handwritten signature]
.....
Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten signature]
.....
Clerk of the Senate

[Handwritten signature]
.....
Clerk of the House of Delegates

[Handwritten signature]
.....
President of the Senate

[Handwritten signature]
.....
Speaker House of Delegates

The within *is approved* this the *5th*
day of *April*, 1994.

[Handwritten signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/3/94

Time 9:26 am