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HOUSE OF DELEGATES
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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4340

(By Delegate Sparks)



Passed March 11, 2000

In Effect Ninety Days from Passage

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1000 P. 1111

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4340

(BY DELEGATE SPARKS)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section four hundred six, article four, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing the length of incarceration for persons convicted of selling drugs to minors by making them ineligible for parole for a longer period of time than under current law.

Be it enacted by the Legislature of West Virginia:

That section four hundred six, article four, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-406. Distribution to persons under the age of eighteen by persons over the age of twenty-one; distribution by persons eighteen or over in or on, or within one

thousand feet of, school or college; increasing mandatory period of incarceration prior to parole eligibility.

1 (a) Notwithstanding any other provision of law to the
2 contrary, a person is ineligible for parole for a period of three
3 years if he or she is sentenced to the custody of the commis-
4 sioner of corrections for service of a sentence of incarceration
5 and is convicted of a felony violation under the provisions of
6 subdivision (i), subsection (a) section four hundred one of this
7 article for distribution of a controlled substance and:

8 (1) Is twenty-one years of age or older at the time of the
9 distribution upon which the conviction is based, and the person
10 to whom the controlled substance was distributed was under the
11 age of eighteen years at the time of the distribution; or

12 (2) Is eighteen years of age or older and the distribution
13 upon which the conviction is based occurred in or on, or within
14 one thousand feet of, the real property comprising a public or
15 private elementary, vocational or secondary school or a public
16 or private college, junior college or university in this state.

17 (b) Notwithstanding any other provision of law to the
18 contrary, a person is ineligible for parole for a period of two
19 years if he or she is sentenced to the custody of the commis-
20 sioner of corrections for service of a sentence of incarceration
21 and is convicted of a felony violation under the provisions of
22 subdivision (ii), subsection (a) section four hundred one of this
23 article for distribution of a controlled substance and:

24 (1) Is twenty-one years of age or older at the time of the
25 distribution upon which the conviction is based, and the person
26 to whom the controlled substance was distributed was under the
27 age of eighteen years at the time of the distribution; or

28 (2) Is eighteen years of age or older and the distribution
29 upon which the conviction is based occurred in or on, or within
30 one thousand feet of, the real property comprising a public or

31 private elementary, vocational or secondary school or a public
32 or private college, junior college or university in this state.

33 (c) The existence of any fact which would make any person
34 subject to the provisions of this section may not be considered
35 unless the fact is clearly stated and included in the indictment
36 or presentment by which the person is charged and is either:

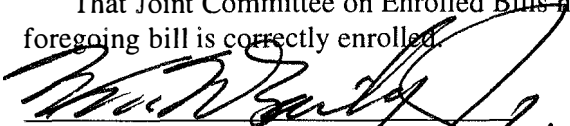
37 (1) Found by the court upon a plea of guilty or nolo
38 contendere;

39 (2) Found by the jury, if the matter be tried before a jury,
40 upon submission to the jury of a special interrogatory for such
41 purpose; or

42 (3) Found by the court, if the matter be tried by the court
43 without a jury.

44 (d) Nothing in this section shall be construed to limit the
45 sentencing alternatives made available to circuit court judges
46 under other provisions of this code.

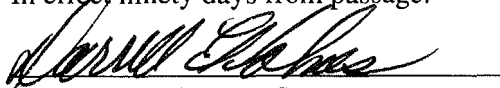
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

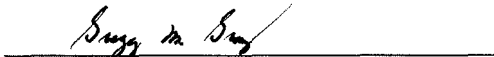

Chairman Senate Committee


Chairman House Committee

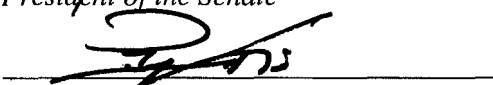
Originating in the House.

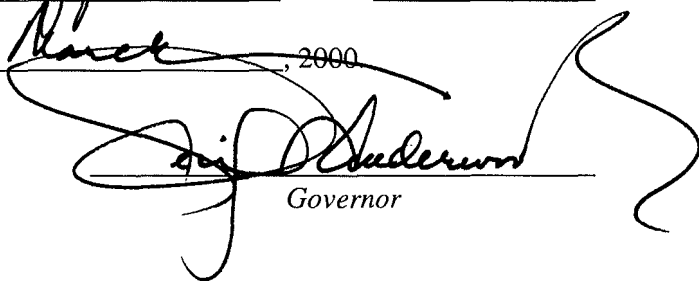
In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 3/5
day of March, 2000

Governor

PRESENTED TO THE

GOVERNOR,

Date 3/27/00

Time 3:05pm