

FILED

2005 MAY -3 P 4: 07

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2523

(By Delegates Perry, Pino, Long, Tabb,
Hrutkay and Armstead)

Passed April 9, 2005

In Effect Ninety Days from Passage

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FOR

H. B. 2523

(BY DELEGATES PERRY, PINO, LONG, TABB,
HRUTKAY AND ARMSTEAD)

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-10-32, relating to making it a crime for released inmates to contact correctional employees or members of the parole board in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-10-32, to read as follows:

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-32. Unlawful contact with a Division of Corrections employee or member of the parole board; penalty.

1 (a) It shall be unlawful for a former inmate of the Division
2 of Corrections to make a telephone call to a Division of
3 Corrections employee or member of the parole board when the
4 employee has requested in writing to that former inmate that he
5 or she not call and the former inmate has actually been served
6 with a copy of the written request.

7 (b) It shall be unlawful for a former inmate of the Division
8 of Corrections to willfully and repeatedly follow a Division of
9 Corrections employee or member of the parole board with
10 whom he or she seeks to establish a personal or social relation-
11 ship when the Division of Corrections employee or member of
12 the parole board has expressed to the former inmate that he or
13 she wishes not to have contact with the former inmate.

14 (c) It shall be unlawful for a former inmate of the Division
15 of Corrections to harass or make credible threats against a
16 Division of Corrections employee or member of the parole
17 board.

18 (d) Any offense committed under sub-section (a) may be
19 deemed to have occurred at the place at which the telephone
20 call was made, or the place at which the telephone call was
21 received.

22 (e) Any person who violates any provision of this section
23 shall be guilty of a misdemeanor, and, upon conviction thereof,
24 shall, for a first offense, be fined not more than five hundred
25 dollars. Any person violating this section for a second offense
26 shall be imprisoned not less than ten days nor more than six
27 months, or both fined and imprisoned.

28 (f) For purposes of this section:

29 (1) "Harass" means willful conduct directed at a specific
30 person or persons which would cause a reasonable person
31 mental injury or emotional distress;

32 (2) "Credible threat" means a threat of bodily injury made
33 with apparent ability to carry out the threat and with the result
34 that a reasonable person would believe that the threat would be
35 carried out;

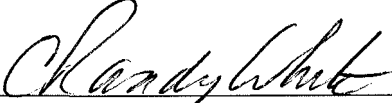
36 (3) "Bodily injury" means substantial physical pain, illness
37 or any impairment of physical condition.

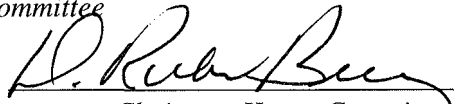
38 (4) "Immediate family" means a spouse, parent, stepparent,
39 mother-in-law, father-in-law, child, stepchild, sibling, or any
40 person who regularly resides in the household or within the
41 prior six months regularly resided in the household.

42 (g) Upon conviction, the court may issue an order restrain-
43 ing the defendant from any contact with the victim for a period
44 not to exceed ten years. The length of any restraining order
45 shall be based upon the seriousness of the violation before the
46 court, the probability of future violations, and the safety of the
47 victim or his immediate family. The duration of the restraining
48 order may be longer than five years only in cases when a longer
49 duration is necessary to protect the safety of the victim or his or
50 her immediate family.

51 (h) It is a condition of bond for any person accused of the
52 offense described in this section that the person is to have no
53 contact, direct or indirect, verbal or physical with the alleged
54 victim.

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

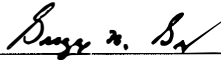

Chairman Senate Committee

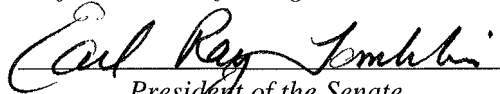

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

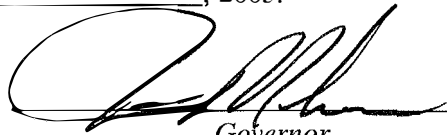

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 3rd
day of May, 2005.


Governor

PRESENTED TO THE
GOVERNOR

MAY 2 2005

Time 4:00 pm