WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

House Bill No. 3228
(By Delegates Ashley, Carmichael and Webster)

Passed March 9, 2007
In Effect Ninety Days from Passage
AN ACT to amend and reenact §61-8B-10 of the Code of West Virginia, 1931, as amended, providing that it is a crime for home confinement officers to engage in sexual intercourse or sexual intrusion with persons incarcerated; defining the phrase ‘incarcerated in this state’ to include home confinement subject to the Home Incarceration Act; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That §61-8B-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-10. Imposition of sexual intercourse or sexual intrusion on incarcerated persons; penalties.

(a) Any person employed by the Division of Corrections, any person working at a correctional facility managed by the Commissioner of Corrections pursuant to contract or as an employee of a state agency, any person working at a correctional facility managed by the Division of Juvenile Services pursuant to contract or as an employee of a state agency, any person employed by a jail or by the Regional Jail and Correctional Facility Authority, any person working at a facility managed by the Regional Jail and Correctional Facility Authority or a jail or any person employed by, or
acting pursuant to, the authority of any sheriff, county
commission or court to ensure compliance with the
provisions of article eleven-b, chapter sixty-two of this code
who engages in sexual intercourse or sexual intrusion with a
person who is incarcerated in this state is guilty of a felony
and, upon conviction thereof, shall be confined in a state
correctional facility under the control of the Commissioner of
Corrections for not less than one nor more than five years or
fined not more than five thousand dollars.

(b) Any person employed by the Division of Corrections
as a parole officer or by the West Virginia Supreme Court of
Appeals as an adult or juvenile probation officer who
engages in sexual intercourse or sexual intrusion with a
person said parole officer or probation officer is charged as
part of his or her employment with supervising, is guilty of
a felony and, upon conviction thereof, shall be confined in a
state correctional facility under the control of the
Commissioner of Corrections for not less than one nor more
than five years or fined not more than five thousand dollars,
or both.

(c) The term “incarcerated in this state” for purposes of
this section includes in addition to its usual meaning,
offenders serving a sentence under the provisions of article
eleven-b, chapter sixty-two 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 is approved this the 2nd day of April, 2007.

Governor
PRESENTED TO THE GOVERNOR

MAR 26 2007

Time 4:10 pm