

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4433

BY DELEGATES RIDENOUR, BUTLER, MALLOW, MARTIN,

HILLENBRAND, B. WARD, KIMBLE, JENNINGS, AKERS,

MAYNOR, AND KUMP

[Passed March 6, 2026; in effect 90 days from
passage (June 4, 2026)]

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1 An ACT to amend and reenact §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-
2 14-7, and §61-14-8 of the Code of West Virginia, 1931, as amended; and to amend the
3 code by adding a new section, designated §61-14-10, relating to human trafficking and
4 human smuggling; creating crimes relating to human smuggling of an adult and human
5 smuggling of a minor; creating criminal penalties; amending definitions; creating
6 definitions; authorizing civil asset forfeiture in certain circumstances; increasing criminal
7 penalties for certain offenses; removal of fines for certain offenses; amending provisions
8 relating to restitution; providing for circumstances where an offender may not be eligible
9 for parole; expanding what constitutes aggravating circumstances; and creating an
10 exemption for medical, mental health, and legal services being provided for an illegal alien.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14. HUMAN TRAFFICKING AND HUMAN SMUGGLING.

§61-14-1. Definitions.

1 When used in this article, the following words and terms shall have the meaning specified
2 unless the context clearly indicates a different meaning:

3 (1) "Adult" means an individual 18 years of age or older.

4 (2) "Coercion" means:

5 (A) The use or threat of force against, abduction of, serious harm to, or physical restraint
6 of an individual;

7 (B) The use of a plan, pattern, or statement with intent to cause an individual to believe
8 that failure to perform an act will result in the use of force against, abduction of, serious harm to,
9 physical restraint of, or deportation of an individual;

10 (C) The abuse or threatened abuse of law or legal process;

11 (D) The destruction or taking of, or the threatened destruction or taking of, an individual's
12 identification document or other property; or

(E) The use of an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function.

As used in this article, "coercion" does not include statements or actions made by a duly authorized state or federal law-enforcement officer as part of a lawful law-enforcement investigation or undercover action, nor does it include the physical restraint of a minor, or the threat of physical restraint by the minor's parent, legal guardian, or legal custodian, when lawfully conducted for any otherwise lawful purpose.

(3) "Commercial sexual activity" means sexual activity for which anything of value is given to, promised to, or received by a person.

(4) "Debt bondage" means inducing an individual to provide:

(A) Commercial sexual activity, in payment toward or satisfaction of a real or purported debt; or

(B) Labor or services in payment toward or satisfaction of a real or purported debt if:

(i) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(ii) The length of the labor or services is not limited, and the nature of the labor or services is not defined.

(5) "Forced labor" means labor or services that are performed or provided by another person and are obtained or maintained through the following:

(A) Threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services, that person or another person would suffer serious bodily harm, physical restraint, or deportation;

(B) Physically restraining or threatening to physically restrain a person;

(C) Abuse or threatened abuse of the legal process; or

(D) Destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of another person: *Provided*, That "forced labor" does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.

As applied in this article, forced labor shall not include labor, work, or services provided by a minor to the minor's parent, legal custodian, or legal guardian, so long as the legal guardianship or custody of the minor was not obtained for the purpose of compelling the minor to participate in commercial sex acts or sexually explicit performance, or perform forced labor or services; nor may it include physical restraint of a minor, or the threat of physical restraint to a minor, by his or her parents, legal custodian, or legal guardian if conducted for any otherwise lawful purpose.

"(6)(A) "Human Smuggling", "smuggling", or "smuggles" means knowingly and willfully transporting, transferring, receiving, isolating, enticing, or harboring an illegal alien for the purposes of avoiding enforcement of the laws of this state, another state, or the United States.

(B) The term "human smuggling" under this article does not apply to:

(i) The voluntary transportation of an illegal alien by an immediate family member;

(ii) Any person acting within the scope of employment, or hired or contracted, by the federal government or another state, who is acting in a manner consistent with the laws of this state and the United States, and who is transporting an illegal alien through this state; or

(iii) Any person acting within the scope of his or her lawful employment or fulfilling a lawful contractual duty who is providing advocacy and shelter services required by 28 C.F.R. 90.4(c), 28 C.F.R. § 94.103(a), 28 C.F.R. § 94.116, and 45 C.F.R. 1370.2: *Provided*, That the person is not knowingly and willfully attempting to evade enforcement of the laws of this state, another state, or the United States.

(C) Any illegal alien being transported through this state shall not be transported to this state for permanent placement."

(7) "Human trafficking", "trafficking", or "traffics" means knowingly recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining, or enticing an individual to engage in debt bondage, forced labor, or sexual servitude.

(8) "Identification document" means a passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.

(9) "Illegal alien" means any individual who has entered the United States without authorization and is subject to removal if apprehended, an individual who was lawfully admitted into the United States but has since violated the terms of admission, or an individual who is otherwise unlawfully present in the United States as provided under federal immigration law.

(10) "Immediate family member" means a person's spouse, parent or step-parent, child, stepchild, or adopted child, grandparent or step-grandparent, grandchild or step-grandchild, sibling, including step-siblings and adopted siblings. The terms "step" and "adopted" include persons related by marriage or legal adoption in the same manner as those related by blood.

(11) "Labor or services" means activity having economic value.

(12) "Minor" means a person younger than 18 years of age or a person representing himself or herself to be a minor. Any prosecution, pursuant to this article, relating to a person that is representing himself or herself to be a minor shall be limited to investigations being conducted or overseen by law-enforcement officers.

(13) "Patronize" means giving, agreeing to give, or offering to give anything of value to another person in exchange for commercial sexual activity.

(14) "Person" means an individual, estate, business or nonprofit entity, or other legal entity. The term does not include a public corporation or government or governmental subdivision, agency, or instrumentality.

(15) "Serious harm" means harm, whether physical or nonphysical, including psychological, economic, or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

(16) "Sexual activity" means sexual contact, sexual intercourse, or sexual intrusion as defined in §61-8b-1 of this code, or sexually explicit conduct as defined in §61-8-1 of this code.

(17) "Sexual servitude" means:

(A) Maintaining or making available a minor for the purpose of engaging the minor in commercial sexual activity; or

(B) Using coercion to compel an adult to engage in commercial sexual activity.

(18) "Victim" means an individual who is subjected to human trafficking, regardless of whether a perpetrator is prosecuted or convicted.

§61-14-2. Human trafficking of an individual; aiding and abetting human trafficking; human smuggling of an individual; aiding and abetting human smuggling; penalties.

(a) Any person who knowingly and willfully traffics an adult, or who knowingly and willfully aids, assists, or abets in any manner in the trafficking of an adult, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for an indeterminate sentence of not less than three years nor more than 15 years.

(b) Any person who knowingly and willfully traffics a minor, or who knowingly and willfully aids, assists, or abets in any manner in the trafficking of a minor, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for an indeterminate sentence of not less than five years nor more than 20 years.

(c) Any person who knowingly and willfully smuggles an adult, or who knowingly and willfully aids, assists, or abets in any manner in the smuggling of an adult, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for an indeterminate sentence of not less than two years nor more than 10 years.

13 (d) Any person who knowingly and willfully smuggles a minor, or who knowingly and
14 willfully aids, assists, or abets in any manner in the smuggling of a minor, is guilty of a felony and,
15 upon conviction, shall be confined in a state correctional facility for an indeterminate sentence of
16 not less than three nor more than 15 years.

17 (e) Whenever a vessel, vehicle, or aircraft is used in human trafficking or human smuggling
18 and the owner, operator, master, pilot, conductor, driver, or any other person in charge thereof is
19 subject to criminal penalties pursuant to a conviction for a violation of §61-14-2 of this code, the
20 conveyance involved is subject to seizure, forfeiture, and sale in accordance with the provisions
21 of §60A-7-701 *et seq.* of this code: *Provided*, That the owner knowingly and willfully engaged in
22 human trafficking or human smuggling in violation of §61-14-2 of this code.

§61-14-3. Use of forced labor; penalties.

1 (a) Any person who knowingly uses an adult in forced labor is guilty of a felony and, upon
2 conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence
3 of not less than three nor more than 15 years.

4 (b) Any person who knowingly uses a minor in forced labor is guilty of a felony and, upon
5 conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence
6 of not less than five years nor more than 20 years.

§61-14-4. Use of persons in debt bondage; penalties.

1 (a) Any person who knowingly uses an adult in debt bondage is guilty of a felony and,
2 upon conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate
3 sentence of not less than three nor more than 15 years.

4 (b) Any person who knowingly uses a minor in debt bondage is guilty of a felony and, upon
5 conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence
6 of not less than five years nor more than 20 years.

§61-14-5. Sexual servitude; penalties.

1 (a) Any person who knowingly uses coercion to compel an adult to engage in commercial
2 sexual activity is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state
3 correctional facility for a determinate sentence of not less than 25 years.

4 (b) Any person who knowingly maintains or makes available a minor for the purpose of
5 engaging the minor in commercial sexual activity is guilty of a felony and, upon conviction thereof,
6 shall be imprisoned in a state correctional facility for a determinate sentence of not less than 50
7 years.

8 (c) It is not a defense in a prosecution under subsection (b) of this section that the minor
9 consented to engage in commercial sexual activity, or that the defendant believed the minor was
10 an adult.

§61-14-6. Patronizing a victim of sexual servitude; penalties.

1 (a) Any person who knowingly patronizes another in commercial sexual activity and who
2 knows that such person patronized is a victim of sexual servitude, is guilty of a felony and, upon
3 conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence
4 of not less than two years nor more than 10 years.

5 (b) Notwithstanding the provisions of subsection (a) of this section, any person who
6 knowingly patronizes a minor to engage in commercial sexual activity and who knows or has
7 reason to know that the minor is a victim of sexual servitude, is guilty of a felony and, upon
8 conviction thereof, shall be imprisoned in a state correctional facility for an indeterminate sentence
9 of not less than five nor more than 20 years.

§61-14-7. General provisions and other penalties.

1 (a) Separate violations. — For purposes of this article, each adult or minor victim
2 constitutes a separate offense.

3 (b) Aggravating circumstance. —

4 (1) Notwithstanding any provision of this code to the contrary, if an individual is convicted
5 of an offense under this article and the trier of fact makes a finding that the offense involved an

6 aggravating circumstance, the individual is not eligible for parole before serving five years in a
7 state correctional facility when the sentence is of an indeterminate nature.

8 (2) Notwithstanding any provision of this code to the contrary, if an individual is convicted
9 of an offense under this article in which the victim is a minor, that individual is not eligible for
10 parole.

11 (3) For purposes of this subsection, "aggravating circumstance" means any of the
12 following:

13 (A) The individual recruited, enticed, or obtained the victim from a shelter or facility that
14 provides services to runaway youth, children in foster care, the homeless, or victims of human
15 trafficking, domestic violence, or sexual assault; or

16 (B) The human trafficking or smuggling offense involved one or more of the following:

17 (i) The use of a deadly weapon, or the threat of use of a deadly weapon;

18 (ii) Bodily injury or disfigurement to any individual who was trafficked or smuggled;

19 (iii) The commission of a sexual offense against any individual who was trafficked or
20 smuggled, or causing individuals being trafficked or smuggled to become a victim of a sexual
21 offense; or

22 (iv) Causing any individual to engage in sexual servitude.

23 (c) Restitution. —

24 (1) The court shall order a person convicted of an offense under this article to pay
25 restitution to the victim of the offense. Restitution may also be awarded to any third parties, public
26 or private, who incurred costs as a result of any offense under this article.

27 (2) A judgment order for restitution may be enforced by the state or a victim named in the
28 order to receive the restitution in the same manner as a judgment in a civil action in accordance
29 with §61-11A-4 of this code, including filing a lien against the person, firm, or corporation against
30 whom restitution is ordered.

31 (3) The court shall order restitution under subdivision (1) of this subsection even if the
32 victim is unavailable to accept payment of restitution.

33 (4) If the victim does not claim restitution ordered under subdivision (1) of this subsection
34 within five years of the entry of the order, the restitution shall be paid to the Crime Victims
35 Compensation Fund created under §14-2A-4 of this code.

36 (d) Eligibility for Compensation Fund. — Notwithstanding the definition of victim in §14-
37 2A-3 of this code, a victim of any offense under this article is a victim for all purposes of §14-2A-
38 1 *et seq.* of this code: *Provided*, That for purposes of §14-2A-1(b) of this code, if otherwise
39 qualified, a victim of any offense under this article may not be denied eligibility solely for the failure
40 to report to law enforcement within the designated time frame.

41 (e) Law Enforcement Notification. — If a law-enforcement officer encounters a child who
42 reasonably appears to be a victim of an offense under this article, the officer shall notify the
43 Department of Human Services. If available, the Department of Human Services may notify the
44 Domestic Violence Program serving the area where the child is found.

45 (f) Forfeiture; Debarment. —

46 (1) The following are declared to be contraband and no person shall have a property
47 interest in them:

48 (A) All property which is directly or indirectly used or intended for use in any manner to
49 facilitate a violation of this article; and

50 (B) Any property constituting or derived from gross profits or other proceeds obtained from
51 a violation of this article.

52 (2) In any action under this section, the court may enter such restraining orders or take
53 other appropriate action, including acceptance of performance bonds, in connection with any
54 interest that is subject to forfeiture.

55 (3) Forfeiture actions under this section shall use the procedure set forth in article §60A-
56 7-1 *et seq.* of this code.

57 (4) Any person or business entity convicted of a violation of this article shall be debarred
58 from state or local government contracts.

§61-14-8. Immunity for minor victim of sex trafficking.

1 (a) In a prosecution or a juvenile proceeding for an offense of prostitution in violation of
2 §61-8-5(b) of this code, a minor may not be held criminally liable if the court determines that the
3 minor is a victim of an offense under this article: *Provided*, That subject to proof, a minor so
4 charged shall be rebuttably presumed to be a victim under the provisions of this article.

5 (b) This section does not apply in a prosecution or a juvenile proceeding for any of the
6 other offenses under §61-8-5(b) of this code, including specifically soliciting, inducing, enticing,
7 or procuring another to commit an act or offense of prostitution, unless it is determined by the
8 court that the minor was coerced into the criminal behavior.

9 (c) A minor who, under subsection (a) or (b) of this section, is not subject to criminal liability
10 or adjudication as a juvenile delinquent is presumed to be an abused child as defined in §49-1-
11 201 of this code and may be eligible for services under Chapter 49 of this code including, but not
12 limited to, appropriate child welfare services including, but not limited to, comprehensive trauma-
13 informed services that are specialized to the needs of child victims of sexual abuse and
14 exploitation or child sex trafficking victims.

§61-14-10. Exemption for medical, mental health, and legal services.

1 Notwithstanding any other provision of this code, this article does not apply to any person
2 providing medical or mental health services to an illegal alien, or to any licensed attorney or their
3 support staff who maintain an active attorney-client relationship with an illegal alien and are
4 representing that person in either a criminal matter against the illegal alien or litigation concerning
5 the illegal alien's legal status under federal immigration or naturalization law.

Enr CS for HB 4433

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Clerk of the House of Delegates

Clerk of the Senate

FILED
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the House of Delegates.

In effect 90 days from passage.

Speaker of the House of Delegates

President of the Senate

The within isapproved..... this the.....14th.....
Day ofMarch....., 2026.

Governor

PRESENTED TO THE GOVERNOR

MAR 09 2026

Time 5:50pm