

2026 LEGISLATIVE SESSION

CRIMINAL LAW LEGISLATION SUMMARIES



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NOTE: The “summary” of the legislation given by the legislative staff is not always accurate, but it is provided to give you some idea of the legislative content and some perspective on what may have been originally intended by the introduced legislation. For this reason, you should not rely on the “summary” given by the legislative staff, but, instead, you should read the more extended summary provided by Public Defender Services. But even that summary is the author’s interpretation of the legislative changes and the effect of the changes, so it is incumbent upon you, with this foundation, to do independent research if the amended or newly enacted statute relates to a matter in which you are involved.

The sponsors of the legislation have also been provided. If questions arise, you might be in the jurisdiction of a sponsor and could possibly approach the legislator to gain more insight. However, the legislation introduced by the sponsors is often hijacked by a committee and the committee substitute may deviate substantially from what was introduced.

I have listed the Senate bills first, in numerical order and then the House bills, also in numerical order. The bills are not arranged, nor could they effectively be arranged, in any subject matter order.

Finally, I have generally avoided discussion of the increase in fines that often accompany the increase in periods of confinement.

OVERVIEW

SENATE BILL 4

Summary:	Relating to crimes against public justice
Sponsor:	Oliverio, Deeds, Woelfel, Thorne, Takubo, Willis, Woodrum, Rucker, Tarr
W. Va. Code:	Adds §61-5-30
Effective Date:	June 12, 2026

The stated purpose of the bill as introduced was “to create a 25-foot barrier around first responders.” Breaching the barrier was to constitute a misdemeanor with fines of fifty to five hundred dollars or confinement in jail up to one year. This seemingly relates to the ICE incidents preceding the legislative session.

An intense debate erupted over the distance. A committee substitute extended the barrier to 30-feet. Debates on the Senate floor erupted over whether the distance should be shortened to 15-feet. 30-feet eventually became the standard.

The final version of the legislation provides that “it is unlawful for a person, *after receiving a verbal warning from a person he or she knows or reasonably should know is a first responder*, who is engaged in the lawful performance of a legal duty, to knowingly and willfully violate such warning and approach or remain within 30 feet of the first responder acting in a way to (1) impede or interfere with the first responder’s ability to perform such duty; or (2) threaten or menace the first responder with physical harm.”

Notably, earlier versions of the legislation also made intended “harassment” as an element of the offense. “Harass” was defined as “a course of verbal conduct directed at a first responder that creates a hostile environment. First amendment concerns may explain the restraint by the House Judiciary Committee from including this in the legislation. This difference in the House and Senate versions resulted in a back and forth until the Senate “receded” and accepted the House’s elimination of harassment as an offensive intent.

While a specific intent in violating the verbal orders is required, it is difficult to envision circumstances in which impeding is not the purpose of any disregard of the verbal warning. Also, does eliminating harassment from the final version mean the order to stay back can be ignored if the intent is merely to yell in the first responder’s face? Again, this seemingly could be construed as impeding or interfering with the first responder.

Finally, the legislation identifies first responders not only as law enforcement officers or firefighters, but also as probation officers.

SENATE BILL 29

Summary: Providing pay increases to members of the judiciary
Sponsor: Oliverio, Hamilton, Morris, Thorne, Takubo, Woelfel
W. Va. Code: Amends §§ 50-1-3, 51-1-10A, 51-2-13, 51-2A-6, 51-9-4, and 51-11-11
Effective Date: July 1, 2026

This legislation address the resentment following the 2025 Legislative Session during which pay raises for the judiciary were not approved.

As introduced, this legislation provided for pay raises in each of FY2027 and FY2028 for justices of the Supreme Court of Appeals, judges of the circuit courts, judges of the family court, and judges of the Intermediate Court of Appeals. Magistrates were not included in the introduced version. The legislation also lowered the contribution to the well-funded judges’ retirement plan from nine percent to seven percent and provides for no contributions if the fund exceeds 125% of the actuarial projections of the amount to meet the future payouts from the fund, which is likely to be the case.

The Supreme Court estimated the raises would require an additional appropriation of 1.9 million dollars after two years. This excluded any pay raises for magistrates.

Resentment may find its way back.

As passed, the pay raises do not take effect until, and are spread out over, FY2028 and FY2029. However, magistrates are included in the future pay raises. The retirement fund provisions as introduced were not changed in the final legislation.

The future salaries are reflected in the following table:

	PRESENT SALARY	FY2028	FY2029
Magistrates	\$63,250	\$70,000	\$70,000

S. Ct. Justices	\$149,600	\$154,600	\$159,600
Circuit Ct. Judges	\$138,600	\$143,600	\$148,600
Family Ct. Judges	\$103,950	\$113,950	\$118,950
ICA Judges	\$142,500	\$147,500	\$152,500

SENATE BILL 54

Summary: Establishing criminal penalties for abuse and neglect of incapacitated adults

Sponsor: Rucker, Tarr, Deeds

W. Va. Code: Amends §§ 61-2-29 and 61-2-29A

Effective Date: June 12, 2026

This legislation is problematic.

In summary, the legislation introduces the concept of “gross neglect” toward an incapacitated adult as a new element of existing and new criminal offenses.

The legislation creates a new offense covering “any person who grossly neglects an incapacitated adult or any caregiver who knowingly permits another person to grossly neglect an incapacitated adult.” The offense is a misdemeanor. The problem with this language is that “gross neglect” is defined as “reckless or intentional conduct, behavior, or inaction *by a caregiver* that evidences a clear disregard for the health, safety, or welfare of an incapacitated adult.” Simply, the offense punishes “any person” who “grossly neglects” an incapacitated adult, but, again, the definition of gross neglect applies only to caregivers.

A new offense is created extending to “any person who abuses, grossly neglects, or neglects an incapacitated adult” and “creates a substantial risk of serious bodily injury or death to the incapacitated adult.” The offense is a felony punishable by incarceration for one to five years. The first problem with this statute is that it extends to both “neglect” and “gross neglect.” If gross neglect exists, then neglect exists, so why the addition of gross neglect when no differentiation in punishment exists? The second problem is that not only does the definition of gross neglect extend to caregivers, so does the definition of neglect. Specifically, “neglect” is the “unreasonable failure *by a caregiver* to provide the care necessary to assure the physical safety or health of an incapacitated adult.”

The new offense might cover “abuse” by any person, but the type of abuse committed by someone other than a caregiver would seemingly be covered by existing offenses. However, the legislation provides that “an offense under this section is a separate and distinct offense in addition to any other offenses in this code.” So, assault by a person on an incapacitated adult could result in the stacking of offenses.

Another new offense extends to “any person who grossly neglects an incapacitated adult causing death.” The conviction is a felony punishable by a definite term of incarceration between five and twenty-five years. But, again, the definition of gross neglect seemingly limits this to caregivers and not every person.

Another new offense extends to “any caregiver of an incapacitated adult who causes the death of an incapacitated adult by knowingly allowing any other person to grossly neglect the incapacitated adult.” This is a felony punishable by a definite term of incarceration between five and twenty-five years. And, beating the dead horse, the governing definitions makes this crime relate to a nonsensical situation in which a caregiver allows another caregiver to grossly neglect an incapacitated adult.

Existing offenses for abuse or neglect of an incapacitated adult are amended to extend to “any person” rather than just caregivers. For neglect, this is problematic as noted because neglect is defined as only encompassing caregivers. Abuse might be extended to any person but would seemingly occur only when a caregiver permits it, which is a separate punishable offense.

Finally, “gross neglect” is added to provisions covering “abuse” and “neglect” for no apparent purpose. The punishment is not increased. However, definite sentences are to be imposed so, perhaps, this is intended to encourage a higher definite term, but judges have that discretion anyway. No purpose seemingly exists for adding the language.

The result is that for this legislation to have the expanded effect, the courts will have to broadly expand the definition of a “caregiver.” This may parallel what has been done with the “person in a position of trust” element in offenses relating to child sexual abuse.

SENATE BILL 84

Summary:	Prohibiting law enforcement from placing surveillance cameras on private property.
Sponsor:	Thorne, Rose, Rucke, Hart
W. Va. Code:	Adds §62-1A-12
Effective Date:	June 4, 2026

This legislation may actually pay homage to the 4th Amendment’s restrictions on searches.

The new code section prohibits a “law-enforcement officer” from installing any “surveillance camera” on private land for the “purposes of gathering information or evidence of criminal activity of the owner or occupant of the private land *without first obtaining either consent of an owner of the private land or a valid search warrant.*” Notably, the consent of an “occupant” is not required.

The legislation adopts the definition of “law-enforcement officer” set forth in W. Va. Code §30-29-1. The statute includes standard law enforcement agency personnel, but also includes “those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of §18B-4-5 of this code, persons employed as hospital police officers in accordance with the provisions of §16-5B-19 of this code, ... persons employed by the Public Service Commission as motor carrier inspectors and weight-enforcement officers charged with enforcing commercial motor vehicle safety and weight restriction laws...[,] persons employed as county litter control officers charged with enforcing litter laws who have been trained and certified as law-enforcement officers and whose certification is currently

active... [,and] persons employed as rangers by resort area districts in accordance with the provisions of §7-25-23 of this code.”

“Surveillance camera” is defined as a “device installed on private land that permits observing, photographing, videotaping, recording, or transmitting visual images of private land or a person’s activities on private land and includes, but is not limited to, a game camera.” A law-enforcement officer’s vehicle dash camera or body camera is not a “surveillance” camera.

Exceptions to this prohibition against searches include (i) the placement of a camera in a spot that is not private but which faces a location on private land that is open to public view; and (ii) “exigent” circumstances and insufficient time to obtain a search warrant.

SENATE BILL 137

Summary: Modifying parole eligibility for crime of second degree murder and voluntary manslaughter

Sponsor: Deeds

W. Va. Code: Amends §§61-2-3, 61-2-4, 62-3-15, & 62-12-13

Effective Date: June 9, 2026

This legislation is the Prosecuting Attorneys’ Institute’s golden ticket.

As introduced, the legislation addressed only second degree murder, providing that the definite term of incarceration be between fifteen and sixty years rather than the current ten and forty years. Parole eligibility was also to be extended from ten years served to fifteen years served. These revisions remain in the final form of the legislation.

As passed, however, the legislation did much more.

The definite term of incarceration for voluntary manslaughter is to be between five and twenty-five years rather than the current three and fifteen years. Parole eligibility is extended from three years served to five years served.

A potentially favorable change is that the limitation on the accelerated parole program is changed from “serving a current sentence for a crime of violence against the person” to “serving a current sentence for a *felony* crime of violence against the person.” This may just be stating the obvious, however.

The definition of “felony offense where the victim was a minor child” now includes the provisions of W. Va. Code §§61-8F-1, governing violence to a disabled child.

The more notable provisions amended into the legislation include extending the period of parole eligibility for an inmate sentenced to life for offenses committed after July 1, 2026, to twenty years served. If, however, the inmate has previously been convicted of a felony, the period is extended to twenty-five years served. And if the offense is first degree murder, the period is extended to twenty-five years.

The offense of sexual abuse by a parent, custodian or person in a position of trust, i.e., W. Va. Code §61-8D-5, has been added to the list of offenses that require designated reports to be provided to the parole board before eligibility is determined.

The final legislation also expressly provides that a victim, a victim's representative, or a prosecuting attorney may appear at a parole hearing. The appearance may be in person or by electronic teleconference. The Division of Corrections and Rehabilitation is authorized to promulgate policies and procedures (notably not legislative rules) to implement this provision.

SENATE BILL 197

Summary: Relating to crime of sexual abuse by parent, guardian, custodian, or person in position of trust to child
Sponsor: Weld, Woelfel, Deeds, Tarr, Z. Maynard
W.Va. Code: Amends §§61-8B-5 & 9; §§61-8D-4a,5 & 6
Effective Date: June 12, 2026

As introduced, the legislation added an “attempt” as an element of the offense against a parent, guardian, custodian, or person in position of trust in relation to a child who knowingly procures, authorizes, or induces another person to sexually abuse a child in their care, custody, or control who is not yet sixteen years of age.

As passed, however, the legislation increased the punishment for the offense of sexual assault in the third degree from one to five years of imprisonment to two to ten years of imprisonment. This offense is for sexual intercourse or intrusion with a person who is “mentally defective or mentally incapacitated.”

The legislation also elevated the offense of sexual abuse in the third degree from a misdemeanor to a felony punishable by one to three years of incarceration. The offense is for sexual abuse of a person who is not yet 16 years old.

The legislation increased the punishment for the offense of child neglect resulting in death from three to fifteen years to ten to forty years.

The legislation did include the introduced language covering the “attempt” by the identified parties to procure, authorize or induce another person to engage in sexual abuse of a child in their care, custody or control. However the offense is now extended to not only children under the age of sixteen years, but also to disabled children. Notably, the defense of a difference in age of less than four years has been removed.

Finally, the legislation increased the punishment for sending, distributing, transporting material by a parent, guardian, or custodian portraying a child under their care in a sexually explicit manner from two years to four years. Also, the list of offenders was extended to persons in a position of trust in relation to a child.

SENATE BILL 200

Summary: Increasing criminal penalties and fines for assault on certain public service workers, law-enforcement officers, and police animals
Sponsor: Weld, Phillips, Deeds
W.Va. Code: repeals §19-20-24 , amends §61-2-10b, adds §61-5-30
Effective Date: June 11, 2026

As introduced, a section was added to the West Virginia Code creating a new offense of willfully causing injury or death to public safety animals.

The Senate Judiciary’s committee substitute reworked the bill structurally. First, it repealed an existing statute within the Chapter governing Agriculture and the Section governing cats and dogs that made it an offense to harm police dogs or public safety animals. *See* W. Va. Code §19-20-24.

The committee substitute also took the opportunity to elevate certain offenses against law enforcement officials and other government officials from misdemeanors to penalties. W. Va. Code §61-2-10b provides that a person who “unlawfully, knowingly and intentionally makes physical contact of an insulting or provoking nature with a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law enforcement officer in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity or unlawfully and intentionally causes physical harm to that person acting in such capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity” is now guilty of a felony instead of a misdemeanor. The resulting penalty is one to three years of incarceration.

Similarly, an attempted assault upon the designated representatives is elevated to a felony punishable by one to three years of incarceration.

Interestingly, the new section created by the Senate Judiciary committee was titled as “causing death or injury to animals *by* law-enforcement officials or by fire or prevention or investigation officials.” An amendment in the House Judiciary committee clarified that it covered public safety animals *used by* officials.

The new offenses in W. Va. Code §61-5-30 are for (i) causing physical injury to a public safety animal under the control of a public safety officer; (ii) causing serious physical injury to a public safety animal under the control of a public safety officer; and (iii) causing death to a public safety animal under the control of a public safety officer. Each offense requires that the public safety officer is acting in an official capacity and the offender knows or has reason to know the public safety animal is acting in its official capacity. Causing serious physical injury is a felony with an indeterminate sentence of one to five years. Causing death is a felony with an indeterminate sentence of two to ten years.

Before amended in the House, however, a right of self-defense was recognized but it was the right to protect the public safety animal from harm. As passed, the amended statute

recognizes the “right of self-defense” by the person charged. The statute also makes an exception for “a person who euthanizes an injured, ill, or infirm public safety animal as part of his or her official duties.”

SENATE BILL 228

Summary: Relating to use of technology in child abuse and neglect investigations
Sponsor: Deeds, Phillips, Woelfel, Oliverio, Barnhart
W. Va. Code: Adds §§49-2-131 & 49-2-815
Effective Date: June 12, 2026

This was introduced as a pilot program extending over five years at a total cost of \$212,100 according to the Department of Human Services.

As introduced, the pilot program for two counties involved the use of a mobile device by Child Protective Workers to access the Department of Human Services’ case management system contemporaneously with the investigation.

The House Finance Committee added another pilot program which would involve executing contracts with “qualified private entities” to provide “caseworker aide services to supplement existing departmental staff within the Bureau for Social Services with administrative support services using a human services technology platform to allow departmental staff more time for personal interactions with children and families served by the department.” These “retained” caseworkers are required to have the equivalent education, experience, training and background check requirements as departmental caseworkers and aides. So, the idea is not to retain caseworkers, but aides to assist the Department of Human Services’ caseworker and to do so by using technology. This pilot is to operate in three counties or less for fifteen months. The Department is given discretion to implement the project statewide if the outcomes are demonstrably improved. The fiscal note was not updated.

Reports are to be made to the Legislature on the effectiveness of the pilot programs.

SENATE BILL 233

Summary: Clarifying qualifications to be licensed to administer polygraphs
Sponsor: Fuller, Deeds
W. Va. Code: Amends §21-5-5C
Effective Date: June 9, 2026

The section amended by this legislation generally requires a person, firm, or corporation to be licensed by the Commissioner of Labor before administering a “psychophysiological detection of deception examination, lie detector, or other similar examination utilizing mechanical or electronic measures of physiological reactions to evaluate truthfulness.”

A Class I license permits a person to employ these methods “for all purposes.”

A Class II license permits a person employed by a law enforcement agency to examine only employees or prospective employees by these methods.

Before this amendment, a person seeking a license had to meet qualifications of “education” or “training” established by the Commissioner of Labor in his sole discretion, but the qualifications had to be as stringent as those required by the American Polygraph Association.

This legislation restricts the Commission from requiring a baccalaureate degree for Class I licensing and an associate degree for Class II licensing.

Notably, this implies that an associate degree may be required for Class I licensing.

SENATE BILL 459

Summary: Ensuring meaningful contact between child and step-siblings
Sponsor: Chapman
W. Va. Code: Amends §48-9-102
Effective Date: June 11, 2026

The amended statute resides in Chapter 48, governing domestic relations, and Section 9, governing the custody of children when the parents do not live together.

The legislation adds to the list of items to be considered when determining the “best interests” of the child in custodial arrangements. The addition is to ensure consideration of “meaningful contact” not only between a child and siblings and half-siblings, but also between a child and “step-siblings when the child has an established bond with the step-sibling and the step-sibling lives at least part-time with the biological parent.”

SENATE BILL 575

Summary: Relating to refusal review hearings
Sponsor: Barrett, Willis, Deeds
W. Va. Code: Amends §§17A-2-20 and 17C-5-7A
Effective Date: June 12, 2026

This legislation resolves a feud between the Attorney General’s office and the county prosecutors.

With the advent of refusal hearings being transferred from an administrative process to the actual criminal proceeding involving the DUI charges, the issue was whether the refusal review hearing was to be prosecuted on behalf of the state by the county prosecutor or, if the jurisdiction was a municipality, by municipal attorneys or by the Office of the Attorney General.

The final answer is that the county prosecutor or the municipal counsel is to prosecute the refusal review hearing and protect the interests of the State of West Virginia. However, additionally added language makes clear the county prosecutor or municipal counsel are not obligated to represent the interests of the Division of Motor Vehicles and are not counsel to the Commissioner.

SENATE BILL 643

Summary: Discontinuing WV Supreme Court of Appeals Public Campaign Financing Program
Sponsor: Charnock, Chapman, Takubo, Tarr, Weld, Hamilton, Morris, Woelfel, Deeds
W. Va. Code: Amends §3-12-1; repeals §§3-12-2, *et seq.*
Effective Date: June 11, 2026

The West Virginia Supreme Court of Appeals Public Campaign Financing Program is most famously known for its successful use by former and discredited Justice Loughery.

Described in this legislation as a “pilot,” the financing program is terminated as of June 30, 2026. Any unexpended balance is to be returned to the General Revenue Fund for the state.

SENATE BILL 741

Summary: Expanding pilot program to implement involuntary commitment process
Sponsor: Helton, Thorne, Takubo
W. Va. Code: Amends §27-5-1B
Effective Date: June 10, 2026

The subject statute was enacted in 2022 in the Article governing “Involuntary Hospitalization” and was entitled “pilot projects and other initiatives.”

The initiatives included a broad collaboration among state entities, including Public Defender Services, to develop standards for use of alternative transportation providers. This was motivated by the Sheriff’s Association which does not want to be in the business of transporting individuals from homes to hospitals to hearings for the purposes of involuntary commitments. The legislature believed, however, standards should exist for transport services provided by entities other than law enforcement. No such standards have yet been developed to my knowledge.

An audit was to be conducted by the Secretary of the Department of Health Facilities of the process for certifying licensed examiners. And the duties of a mental health center were summarily set forth for evaluations for involuntarily commitment.

The “pilot project” was limited to a few counties and enabled the Supreme Court of Appeals, mental health facilities, law enforcement, Department of Human Services, and the Department of Health Facilities to implement an involuntary commitment process, presumably different from the existing process.

Currently, the pilot project is limited to Cabell, Berkeley, and Ohio counties. This legislation was enacted to include Hampshire, Morgan, Raleigh, and Wood counties in the pilot project.

Most interestingly, perhaps, is that this legislation re-designated the statute’s subsections from “a, b, i, and k” to “a, b, c, and d.”

SENATE BILL 742

Summary: Modifying requirements for involuntary hospitalization
Sponsor: Helton, Deeds
W. Va. Code: Amends §27-5-2A
Effective Date: June 12, 2026

Notably, this legislation became law without the Governor’s signature.

The statute before this amendment permitted a physician on staff with a hospital, “if a mental hygiene commissioner, magistrate, and circuit judge are unavailable or unable to be immediately contacted,” to order the involuntary hospitalization of a patient or individual “who is present at, or presented at, a hospital emergency department in need of treatment, if the authorized staff physician believes, following an examination of the individual, that individual is addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty.”

Within 24 hours, the physician is required to file a mental hygiene petition and set forth the physician’s certification that the patient meets the criteria for involuntary hospitalization. At this point, the process for involuntary commitment begins with a hearing before the mental hygiene commissioner, a magistrate, or a circuit judge.

This legislation permits the physician on staff with a hospital to order the hospitalization of such an individual without having to first contact or attempt to contact a mental hygiene commissioner, a magistrate or a circuit judge and permits the hospitalization to continue for 72 hours before a mental hygiene petition must be filed on the grounds of addiction or mental illness.

SENATE BILL 723

Summary: Clarifying law-enforcement cooperation with bordering states
Sponsor: Barnhart, Deeds, Grady
W.Va. Code: Amends §§15-10-3 and 15-10-4
Effective Date: March 14, 2026

Existing code provides for cooperation between law-enforcement agencies within the state between and among each other or with federal law-enforcement.

The legislation amends the code to provide for cooperation also with law-enforcement agencies in “an adjoining state.” It requires a request from the adjoining state’s head of the law-enforcement agency in writing, unless an emergency exists that involves imminent risk of loss of life or serious bodily injury.

The legislation also expressly defines “law-enforcement agency” to mean “an agency of the United States, a State, or a political subdivision of a State, authorized by law to enforce, engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law to include the State Police, Division of Protective Services, the Natural Resources

Police of the Division of Natural Resources, a police department of an incorporated municipality, the Office of the Sheriff of any West Virginia county, or the Division of Forestry.” The head of campus police are also included as an entity able to cooperate with law-enforcement agencies.

SENATE BILL 862

Summary: Repealing Addiction Treatment Program
Sponsor: Morris
W. Va. Code: Repeals §§62-15A-1, *et seq.*
Effective Date: May 28, 2026

The summary is accurate. This legislation repealed provisions outlining an Addiction Treatment Program to be operated by the Division of Corrections and Rehabilitation for offenders with opioid addiction.

The program was a pilot program that, in 2018, was made permanent. Referrals could be made by the court’s adult drug court for those specifically identified as addicted to opioids and who were eligible for Medicaid or other state or federal funding.

SENATE BILL 1026

Summary: Increasing criminal penalties and fines for disturbing religious worship
Sponsor: Willis, Deeds, Bartlett
W. Va. Code: Amends §61-6-13
Effective Date: June 12, 2026

Considering recent events, the evolution of this legislation is interesting.

As introduced, a new offense was created for which the elements were: “No person, with purpose to prevent or disrupt a lawful meeting, procession, or gathering shall do either of the following: (1) do any act which obstructs or interferes with the due conduct of such meeting, procession, or gathering; or (2) make any utterance, gesture, or display *which outrages the sensibilities of the group.*” [emphasis added]. Commission of this offense gave rise to a misdemeanor – unless the gathering was for religious worship. If the “assemblance of people” is meeting for “religious worship”, then whether the interference is at the physical place of worship or in a virtual environment, the offense is a felony.

In Senate Judiciary, the decision was made to not create a new offense, but to increase the penalties for an existing offense set forth in W. Va. Code §61-6-13, *Disturbance of religious worship; penalty*. The offense remains a misdemeanor, but the period of incarceration is extended from six months to one year. Notably, the offense includes actions which “molests” the assembly of people. I am not sure how this is accomplished.

When sent to the House, the legislation was amended by the House Judiciary Committee to eliminate an action that “molests”. Specifically, the offensive conduct is that which “willfully interrupts, obstructs, or substantially disturbs any assembly of people meeting for religious worship.” Moreover, the House added the following provision: “Nothing in this section shall be construed to prohibit peaceful picketing, protest, or other expressive conduct by the First

Amendment that does not willfully interrupt, obstruct, or substantially disturb any assembly of persons meeting for religious worship.”

This became the final version of the approved legislation.

HOUSE BILL 4053

Summary: To establish the blue envelope program
Sponsor: Hall, Fehrenbacher, Crouse, Shamblin, Holstein, Drennan, Moore, Pinson, Heckert, Hillenbrand
W.Va. Code: Adds §§15-3G-1, *et seq.*
Effective Date: June 11, 2026

The Blue Envelope Program helps individuals with autism communicate with law enforcement officers at traffic stops and accidents. The House Judiciary Committee expanded the initiative to include individuals with dementia or intellectual and developmental disabilities. The participants receive a blue envelope containing their driver’s license, vehicle registration, and an emergency contact card. On the exterior of the envelope are guidelines for law enforcement to adapt their approach when interacting with the individual. Materials would be available by mail and at State Police detachments and county motor vehicle offices. Police are not required to verify the information and will not be liable if following the guidelines on the envelope.

HOUSE BILL 4138

Summary: Relating to persons convicted of a crime
Sponsor: Akers, Pinson
W. Va. Code: Amends §§15-2C-2 & 15-12-2
Effective Date: June 12, 2026

The legislation accomplished two objectives.

First, the annual payment of \$125 by a convicted person required to register with the Central Abuse Registry or the Sex Offender Registry is to be paid to the State Police rather than the circuit clerk. Essentially, the administrative processing of the payments is moved to the State Police which may simply be a recognition that the funds are currently required to be credited by the State Treasurer to the account of the State Police after remittance by a circuit clerk.

Second, required registrants on the Sex Offender Registry now include persons convicted of the offenses set forth in W. Va. Code §61-8-28a, i.e., “Nonconsensual disclosure of private intimate images,” and W. Va. Code §61-8-32, i.e., “Soliciting, etc. a minor by means other than via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity.”

HOUSE BILL 4169

Summary: Relating to mental health examination requirements
Sponsor: Masters
W. Va. Code: Amends §61-7A-5
Effective Date: June 9, 2026

This statute provides a means to regain the ability to possess a firearm by a person prohibited from possessing a firearm “by virtue solely of having been previously adjudicated to be mentally defective or to having a prior involuntary commitment to a mental institution...”

Currently, the “petition for relief from disability” must include “a verified certificate of mental health examination by a licensed psychologist or psychiatrist.”

The introduced bill expanded the persons who could provide the certificate to include a “physician, psychologist, licensed professional counselor ..., licensed independent clinical social worker ..., an advanced nurse practitioner with psychiatric certification ..., or a physician assistant...” The rationale is that this list would comport with the expanded list of people who could provide certifications in mental hygiene proceedings.

An amendment added, however, the following provision that the identified professionals could do the certification only if “he or she has previously been authorized by an order of the circuit court to do so, the order having found that the ... [the identified professional] has particularized expertise in the areas of mental health and mental hygiene or substance use disorder sufficient to make the determinations required.”

HOUSE BILL 4415

Summary: Creating crime of attempting to smuggle contraband into federal correctional institutions within the state

Sponsor: Green, Jeffries, Hanshaw, Pinson, Funkhouser, Butler, Brooks, Marple, Hott, Browning, Ward

W. Va. Code: Amends §61-5-8

Effective Date: June 12, 2026

The introduction of legislation to include federal institutions within the provisions regulating the delivery of contraband into state correctional institutions has been an perennial endeavor that now has succeeded.

Succinctly, the offense for bringing contraband of any nature into state correctional facilities now also encompasses federal correctional facilities. Presumably, an offender is now looking at state and federal charges.

And, for good measure, the Senate Judiciary Committee took the opportunity to increase the penalty for aiding or facilitating an escape through delivery of items onto the grounds of a facility from one to ten years to three to fifteen years.

HOUSE BILL 4433

Summary: Prohibiting Human Smuggling and Trafficking

Sponsor: Ridenour, Butler, Mallow, Martin, Hillbenbrand, Ward, Kimble, Jennings, Akers, Maynor, Kump

W.Va. Code: Amends §§61-14-1, *et seq.*; adds §61-14-10

The legislation amends and adds a section 10 to Human Trafficking and Human Smuggling, Article 14, Chapter 61. The new section §61-14-10 and amendments creates new offenses relating to human smuggling of an adult and human smuggling of a minor. Accordingly, the legislation creates criminal penalties; provides for restitution; and provides for circumstances where an offender may not be eligible for parole.

The act defines “Human Smuggling” to mean the knowing and willfully transporting, transferring, receiving, isolating, enticing or harboring an illegal alien for the purposes of avoiding enforcement of law. It does not apply to voluntary transportation of an illegal alien by an immediate family member, or any person acting in 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 who is providing advocacy and shelter services required by 28 C.F.R. 90.4(c).

The distinction between human smuggling and the existing trafficking is that smuggling involves the evasion of laws in the movement of an undocumented person without intent to harm the person whereas trafficking is done to deliver individuals through movement to a place into a form of bondage or servitude.

Offenders are subject to an indeterminate sentence of no less than 3 years and no more than 15 years for human smuggling of a minor and no less than 2 years and no more than 10 years for human smuggling of an adult.

An exemption is made for medical, mental health, and legal services being provided for an illegal alien.

HOUSE BILL 4592

Summary:	Relating to college campus security
Sponsor:	Hornby, J. Cannon, Crouse, Browning, Dean, Ridenour, Stephans, McGeehan, Holstein
W. Va. Code:	Adds §18B-4-5c
Effective Date:	June 12, 2026

The legislation requires state institutions of higher education to do that which is currently required of the state’s elementary and high schools. The colleges are to create “standardized campus safety mapping data” in a form that can be shared electronically or downloaded to software providing detail regarding the campus and its buildings, including “room names, hallway designations, exterior doors, stairwell numbers and the locations of hazards, critical utility controls, key boxes, automated external defibrillators, and trauma kits.” Other details to be included are specified. The data is to be modified as necessary and stored in a secured fashion. The data is to be shared with “local first response agencies.” In the process of the mapping, the colleges are to “consult and receive approval from the primary law enforcement agency serving and supporting the institution.”

The data is not subject to the state’s freedom of information act.

HOUSE BILL 4606

Summary: Relating to the meaning of residence for the purpose of bail
Sponsor: Hornby, Funkhouser
W. Va. Code: Amends §§62-1C-1A & 62-1C-4
Effective Date: June 12, 2026

Well, this legislation reformed bail, but not in the way many of us desire.

The intended purpose of the legislation was to require residency to be considered in determining if “good cause” existed to release a person charged with a misdemeanor offense on his or her own recognizance. Specifically, the judicial officer is to consider “whether the person: (A) is a resident of West Virginia and/or the United States of America; (B) has ties to the community; or (C) is a risk of flight.”

The obviousness of the requirement is that undocumented individuals cannot be released on their own recognizance.

This language is included in the final version of the bill.

With the introduced bill as a framework, however, the Legislature took the opportunity to insert the following proviso: “Provided, that pursuant to §62-1C-4 of this code, a magistrate may not release a defendant charged with a felony offense on his or her own recognizance.” It is ironic for this proviso to be in a section solely addressing misdemeanors.

Delegate Garcia managed to have the language modified in the final version of the bill. As passed, the proviso now prohibits release on recognizance for specific felony offenses constituting violence against the person, crimes against a minor victim, arson, or burglary or felonies involving controlled substances.

HOUSE BILL 4712

Summary: Increasing the criminal penalties for DUI causing death to be known as Baylea’s law
Sponsor: Holstein, Hanshaw, T. Howell, J. Cannon, Chairelli, Vance, Parsons, Heckert, Akers
W. Va. Code: Amends §17C-5-2
Effective Date: June 12, 2026

As introduced, the bill only increased the period of imprisonment for the offense of causing a death by operation of a motor vehicle while impaired.

However, controversy ensued over a case in Raleigh County in which the offender was diverted to the Anthony Center.

Accordingly, the House Judiciary Committee further amended the statute to provided that in the enumerated circumstances, the period of incarceration for the offense of causing death by

operation of a motor vehicle was mandatory and the offender was not eligible to be assigned to a center for housing youthful offenders and was not eligible for home confinement.

The Senate Judiciary Committee crafted the final version of the bill, however.

As passed, a new offense is created. The element “with deliberate disregard” is added to the operation of a motor vehicle in an impaired state that proximately causes the death of any person, including an embryo or fetus. If the element is proved, the period of incarceration is increased from three to fifteen years in current code to five to thirty years. The revocation of license is for life rather than ten years in current code. It is “provided further” that the sentence is mandatory and the offender is not eligible for assignment to the Anthony Center or for a sentence of home confinement. Finally, this offense is to be known as “Baylea’s Law.”

If the element “with deliberate disregard” is not present, then the current provisions will continue to govern “DUI causing death” and diversion to the Anthony Center or a sentence of home confinement would be possible.

HOUSE BILL 4749

Summary: Adding requirements to the foster child bill of rights
Sponsor: Worell, Hite, Kimble, Hornby, Heckert
W.Va. Code: Amends §49-2-126
Effective Date: June 3, 2026

Since 2020, a “Foster Child Bill of Rights” has existed in code, i.e., W. Va. Code §49-2-126. Violation of the rights do not create an “independent cause of action.” Instead, the violations are to be reported to, and investigated by, the foster care ombudsman with a report to the Legislature by the ombudsman regarding the reports and investigations.

This legislation adds three additional rights. First, a child over 13 years of age is entitled to receive a notice of any hearing that may have legal implications for the child. The child’s guardian ad litem or legal counsel must explain the nature of the hearing and inquire whether the child wishes to attend. Second, a child over 13 years of age is entitled to attend any hearing that may have legal implications for the child. The child’s guardian ad litem or legal counsel must inform the child that attendance may involve distressing information but is not to discourage the child from attending. If the court determines that in-person attendance is impracticable, or not in the child’s best interest due to the facts of the case, the circumstances of the child’s placement, or other relevant factors, the court may require the child to attend the hearing virtually. If practicable and in the child’s best interest, deference is to be given to the child’s desire to attend in-person. Third, any child has the right to have the outcome of any hearing that has legal implications for the child explained by the child’s guardian ad litem or legal counsel.

HOUSE BILL 4755

Summary: Adding Aggravated Vehicular Homicide to the list of qualifying offenses
Sponsor: Ridenour, Kump, Butler, Masters, Hillebrand, Funkhouser, Ward, Mallow, Kimble, Martin
W. Va. Code: Amends §61-11-18

Effective Date: June 12, 2026

As the summary indicates, certain driving offenses were to be added to the list of offenses which qualified for recidivist treatment. The final version of the bill added another offense in addition to the driving offenses and, more helpfully, added the headings of every listed statute. This is helpful in that when the list is reviewed, the offense is immediately identified. Previously, the code sections would have to be searched in Westlaw to determine the offense.

So, in the final legislation, the following offenses can now invoke the recidivist provisions: §17C-5-1(c), Aggravated vehicular homicide; §17C-5-2(b), Driving under the influence causing death; §17C-5-2(c), Driving under the influence causing serious bodily injury; §17C-5-2(m), Third offense driving under the influence; and §61-5-17a, Obstructing a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel causing death.

For your information, the list now contains 92 “qualifying offenses.”

HOUSE BILL 4819

Summary: Relating to use of criminal records as disqualification from authorization to practice a particular profession
Sponsor: Crouse, Hornby, Leavitt, Young
W. Va. Code: Amends §§21-1-6, 21-5-5C, 21-14-6, 21-16-7, 29-3B-4, 29-3C-4, & 29-3D-6
Effective Date: June 10, 2026

First, provisions in this bill were also amended in Senate Bill 233, relating to licensing as a psychophysiological detection of deception examiners. This bill was passed one day after Senate Bill 233 and is effective one day after the effective date of Senate Bill 233. The two bills seemingly make identical changes to certain provisions regarding education of lie detector operators. However, close scrutiny should be undertaken.

Second, the bill appears to be ameliorative toward people who have a criminal record and who are seeking professional licensing.

Currently, professional licensure within the province of the Commissioner of Labor and the State Fire Marshal is not to be denied because of a prior criminal conviction that “remains unreversed” unless the crime of conviction bears a “rational nexus” to the activity requiring licensure.

This legislation now states that professional licensure cannot be denied unless the crime of conviction “directly and specifically relates to the duties and responsibilities of the activity requiring licensure such that granting the applicant licensure would pose a direct and substantial risk to the public because the applicant has not been rehabilitated.” Regarding the somewhat surprising role of the Commissioner or State Fire Marshal in determining successful rehabilitation, the evidence to be considered is: (i) the age at which the offense was committed;

(ii) the completion of the criminal sentence; (iii) a certificate of rehabilitation or good conduct; (iv) completion of, or active participation in, rehabilitative mental health, drug, or alcohol treatment; (v) testimonials and recommendations, which may include a progress report from the individual's probation or parole officer; (vi) education and training; (vii) employment history relevant to the license being sought; (ix) whether the individual will be bonded in the occupation; and (x) other evidence of rehabilitation the individual submits to the commissioner.

Previously, an applicant was permitted to apply for a license if five years had passed and the applicant had not been convicted of any other crime and the disqualifying crime was not an offense of a violent or sexual nature. This legislation provides that the applicant is not to be disqualified from licensure if these conditions are met.

The legislation expressly provides that an applicant is not required to disclose and the licensing authority is not to consider an arrest that was not followed by a conviction. The following provision was also inserted in various sections governing professional occupations: "If a criminal background check is reviewed, the disposition of any arrest or charge must be included."

In addition to these general governing legislative provisions, the legislation addressed the following professions specifically: (i) psychophysiological detection of deception examiners; (ii) plumbers; (iii) heating, ventilating and cooling workers; (iv) electricians; and (v) fire protection workers.

HOUSE BILL 4990

Summary:	Relating to crimes using gift cards
Sponsor:	Brooks, Martin, Vance, Kyle, Roop, Mallow, Marple, Hornby, Pritt, Ferrell, B. Smith
W. Va. Code:	Add §§61-4A-1,2,3,4
Effective Date:	June 12, 2026

A new set of criminal offenses is created revolving around the theft, tampering, or obtaining by false pretenses of gift cards. Gift cards are generally defined in the legislation as a "card, code or device that is issued to a consumer on a prepaid basis for goods, services or credits in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment." The statute also uses the term "gift card redemption information" which is "information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card."

A person who "with the intent to defraud any other person or entity, acquires or retains possession of a gift card or gift card redemption information without the consent of the cardholder, card issuer, or gift card seller" is guilty of larceny. If the value is less than \$1,000, the offense is petit larceny and a misdemeanor punished by incarceration for up to one year in jail. Otherwise, the offense is grand larceny and a felony punished by incarceration for an indeterminate term of one to ten years.

A person who “with the intent to defraud any other person or entity, alters or tampers with a gift card or its packaging” is guilty of the offense of “tampering with a gift card.” The resulting penalties are identical to the larceny penalties.

A person who “with intent to defraud any other person or entity, devises a scheme to obtain a gift card or gift card redemption information from a card holder, card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises” is guilty of the offense of “false pretenses involving a gift card.” The resulting penalties are identical to the larceny penalties.

Notably, the determination of the value can be made by cumulating the value of multiple gift cards “when such gift cards are part of a common scheme or plan.”

HOUSE BILL 4996

Summary:	Relating to bail in cases involving terroristic threats to schools or children
Sponsor:	Martin, Burkhammer, Phillips, Hornby, Funkhouser, Mallow, Butler, Ridenour, Zatezalo, Anderson, McGeehan
W. Va. Code:	Amends §61-6-20
Effective Date:	June 12, 2026

As introduced, the legislation merely added a mandatory condition to bail for a person charged with terroristic threats involving a school or children. Principally, a condition of bail would be that the person is not to reside within one thousand feet of the property line of any school, preschool, daycare center or other educational facility where children are regularly present.

Instead, the completed legislation did two things.

First, the offense of “reporting a false emergency when knowing the information reported, conveyed or circulated is false” is now required to cause a public alarm or inconvenience that is “severe.” A “severe public alarm or inconvenience” is defined in the legislation as “(A) the evacuation or closure of a building, place of assembly, facility of public transportation, or other public space; (B) the substantial disruption of public services, including but not limited to emergency response, law enforcement activities, or transportation; (C) widespread fear or panic among members of the public, as evidenced by multiple reports to authorities or observable public reaction; or (D) any other significant interference with the ordinary activities of the public that a reasonable person would consider serious, considering the nature, context, and foreseeable consequences of the threat.”

Second, the felony offense of “communicating a threat to commit a crime of violence” is created and is punishable by incarceration for an indeterminate sentence of one to ten years. The elements of the offense are that a person intentionally communicates a threat to commit any crime of violence against another person or persons and causes “severe public alarm or inconvenience” or “recklessly disregards the risk of causing such severe public alarm or inconvenience.” Threat is defined as “any communication that a reasonable person, in view of the totality of the circumstances, including the context, the medium of transmission, and the

relationship between the communicator and the recipient, would interpret as a serious expression of intent to commit a crime of violence against another person and that would cause the recipient to be placed in a reasonable apprehension of such harm.” A “crime of violence” is defined as “any criminal offense, whether classified as a felony or misdemeanor under the laws of this state that requires as an element the use, attempted use, or threatened use of physical force against another person.”

While the original language involving educational facilities or children is not used, the completed legislation does permit conditions of release to include being prohibited from establishing a residence or accepting employment within one thousand feet of the “place where the violence was threatened to occur” or “the residence of any threatened person.”

Notably, the amended statute precludes as a defense that the “defendant did not have the ability to complete the threatened violence.” Moreover, the new offense is separate and distinct from any other existing offenses.

HOUSE BILL 5101

Summary: The Joanna Phillips Domestic Violence Prevention Act
Sponsor: Leavitt, Akers, D. Cannon, Roop, Moore, Maynor, T. Howell, Drennan, Ferrell, Dittman, Kimble
W. Va. Code: Amends §§61-2-9D, 28
Effective Date: June 12, 2026

Presently, the strangulation, suffocation or asphyxiation of another person without their consent is subject to one to five years of imprisonment.

This legislation was named after a person who was subject to deadly violence from a household member. The legislation creates a separate felony offense of strangulation, suffocation or asphyxiation of a “family or household member” or of any other person during the commission of several enumerated felonies, i.e., child abuse, sexual abuse or assault, filming of sexually explicit conduct of minors, and incest, that results in bodily injury or loss of consciousness. The punishment for this offense is two to ten years of imprisonment. If this is a second conviction of this offense, the punishment is three to fifteen years of imprisonment. Moreover this offense will now result in the enhancement of penalties for any subsequent convictions for domestic battery and domestic assault.

HOUSE BILL 5214

Summary: Relating to drug testing of parents who have had abuse and/or neglect claims substantiated against them prior to reunification
Sponsor: Heckert
W. Va. Code: Amends §49-4-604
Effective Date: June 12, 2026

Before this amendment, the statute provided that, as the next preferred disposition after dismissal of the petition, the child be returned to his or her home under supervision of the Department of Human Services.

This legislation makes drug testing of the parents in certain circumstances a condition to the return of the child to the home. Specifically, if the parent has been adjudicated as having abused or neglected their child and the order finds that the parent improperly used controlled substances which contributed to the circumstances resulting in the child's removal from the home or the court finds that other credible evidence of substance abuse exists, then the court "may" require that the parent undergo and successfully pass a drug test. The initial battle in the passage of the legislation was whether, in all circumstances, a test for drug or alcohol should be mandatory.

The department is to conduct the test and notify the parties and the court of any positive test and submit the testing for laboratory confirmation. The department is to bear the costs of the testing. The court may schedule a hearing to "address the potential laboratory confirmation of the initial positive test."

The legislation does not dictate the court's reaction to a positive test after confirmation by a laboratory. Presumably, the court moves to the next possible disposition of the proceeding on the statutory list.

HOUSE BILL 5366

Summary: Relating to rules governing the practice of law
Sponsor: Funkhouser, Akers
W. Va. Code: Amends §51-1-4A
Effective Date: June 12, 2026

The legislation makes the records, files or other documents provided to the West Virginia Judicial and Lawyer Assistance Program exempt from the State's Freedom of Information Act if the rules of the Supreme Court of Appeals of West Virginia governing the JLAP program provide for confidentiality of the documents.

Interestingly, the legislation in its final form removed the following proviso from the existing statute: "Provided, however, that the annual fees to be paid by any attorney at law shall not exceed the sum of \$5, unless a majority of the attorneys at law practicing in this state consent to the payment of a higher annual fee." Other archaic provisions were also removed.

HOUSE BILL 5406

Summary: Relating to driving under the influence
Sponsor: Akers, Funkhouser, Kimble, Mallow, Flanigan, Jennings, Marple, Shamblin, Zatezalo, Phillips, Heckert
W. Va. Code: Amends §§17C-5-4, 5, 6, 6A, 8 & 10
Effective Date: June 10, 2026

This bill was introduced at the request of the Department of Homeland Security – West Virginia State Police.

The legislation makes the West Virginia State Police Forensic Laboratory, rather than the Bureau of Public Health, responsible for the certification, standards and administration of preliminary breath analysis and secondary chemical tests.

Also, the legislation provides that, in addition to a doctor of medicine or osteopathy, a registered nurse, and a trained medical technician, “any professional trained in phlebotomy at the place of his or her employment” may withdraw blood to determine alcohol concentration.

HOUSE BILL 5444

Summary: Relating to increasing the amount of fees to be paid by parolees for supervision
Sponsor: Akers, Flanigan
W. Va. Code: Amends §62-12-17
Effective Date: June 8, 2026

This legislation increased the amount of the fee to be paid by parolees and federal or foreign state probationers and parolees supervised by the State of West Virginia from a cap of \$40 to a cap of \$50. The actual amount of the fee is supposed to be based on “ability to pay.”

While the impact seems minimal, the fiscal note for the legislation summarized as follows: *The estimated impact of a \$10 increase to the Parole Supervision Fee would result in a 25% revenue increase for the WV Division of Corrections, Parole Supervision Fee Fund , Special Revenue account. In FY25, total collections for these fees was \$1,065,390.20. Increasing the fee by \$10 would result in an estimated total of \$1,331,737.75, which is an increase of \$266,347.55.*

HOUSE BILL 5484

Summary: Creating the crime of conspiracy to deny medical treatment to victim of sexual offense
Sponsor: White, Coop-Gonzalez, Dillon, McGeehan, T. Howell, Crouse, Moore, Drennan, Mazzocchi, Green Kimble
W. Va. Code: Adds §61-2-31
Effective Date: June 12, 2026

Notwithstanding the summary, this legislation actually creates several new offenses.

The legislation begins with the following declaration: *All persons within the boundaries of the State of West Virginia have the right to seek appropriate medical treatment permitted under West Virginia law or medical forensic care related to a sexual offense, without delay, in a private, age-appropriate, or developmentally appropriate space required to ensure the health, safety, and welfare of the victim of the sexual offense.*

A felony offense punishable by five to fifteen years of imprisonment arises if a person by force or threat of force “willfully injures, intimidates, or interferes with, or attempts to injure,

intimidate, or interfere with, or oppresses or threatens any other person in the free exercise of the right to seek appropriate medical treatment ... or medical forensic care to obtain biological evidence ... related to a sexual offense.”

A second felony offense exists for a person who “knowingly and intentionally forces or coerces a victim of a sexual offense which results in the pregnancy of the victim to have an illegal abortion.” The resulting punishment is also five to fifteen years of imprisonment.

A conspiracy to commit either offense is also punishable by five to fifteen years of imprisonment.

Notably, an exception was included in the definition of “force or coerce” for the “provision of information, counseling, or assistance regarding alternatives to an abortion.”

HOUSE BILL 5528

Summary: Relating to protection of personal residential information of certain public officials
Sponsor: D. Cannon, Vance, Marple
W. Va. Code: Amends §5A-8-24a
Effective Date: June 12, 2026

In its original form, this legislation would have mandated state entities to maintain the confidentiality of personal information, including cell phone numbers and residential addresses, for public officials. The failure to do so might result in a civil action for damages.

As passed and enacted into law, the legislation permits “covered individuals” to write to a state agency, county, municipality or political subdivision that is in possession or control of a publicly accessible website, database, or record containing personal residential information and ask that the personal residential information be removed or redacted from the specified record. The entity receiving the request is to make “reasonable efforts” to remove the information from all records within its control. A civil action for injunctive or declaratory relief may be filed if the requested action is not taken and, if successful, the person requesting the action may recover attorneys’ fees and litigation costs.

An entity in possession of the redacted information may nonetheless disclose the information if required by law or other legal process. The “covered individual” must also affirm in writing an understanding that by removing the information the person may “forfeit certain legal, promotional, or official notices.”

“Covered individuals” include “any person who is or was previously elected, appointed, served, or employed as a judicial officer, prosecutor, public defender, law-enforcement officer, elected official, or campaign treasurer and includes any immediate family member residing in the same household.”

HOUSE BILL 5582

Summary: Extending program for drug screening of applicants for TANF

Sponsor: Chiarelli, Burkhammer, Foggin, Heckert
W. Va. Code: Amend §9-3-6
Effective Date: June 12, 2026

With federal approval, this statute permits the drug testing of applicants for TANF. Failing a drug test means maintaining benefits by completing a substance abuse treatment and counseling program and a job skills program and then submitting to periodic drug screens.

However, the original enactment gave authority to the Secretary of the Department of Human Services to only continue the program through December 31, 2026.

This legislation removes the end date and provides for no cessation of the program assuming federal approval continues. The Secretary is to provide annual reports to the Legislature.

The definition of “drug test” was amended to include “an oral fluid rinse.”

HOUSE BILL 5684

Summary: Relating to authorizing the Supreme Court of Appeals to create child protection commissioners
Sponsor: Akers, Maynor, Butler, Heckert, Holstein, Phillips, B. Ward, D. Cannon, Burkhammer
W. Va. Code: Amends §§5-10-48, 49-1-207, 49-4-118, 51-9-10
Effective Date: June 12, 2026

This bill originated in the House Judiciary Committee.

Notably, the legislation provides that the general restriction on state employment of state retirees will not apply to retired employees who are hired by the Supreme Court of Appeals to serve as a “child protection commissioner” or a “circuit court law clerk.” This is in deference to the “severe shortage of attorneys to represent children in child welfare matters.” The retiree must meet the qualifications of the position and must have been retired for at least 60 days.

Also, retired judges may be recalled to serve as “child protection commissioners” or law clerks for circuit court judges, judges of the Intermediate Court of Appeals, or the Supreme Court of Appeals.

The legislation implements a pilot project using “child protection commissioners.” A commissioner is appointed by the Supreme Court of Appeals for a two year term and is “subject to the administrative oversight, training, and standards” established by the Court. A child protection commissioner will serve in designated regions and may, under the direction and oversight of the chief circuit court judge, “authorize emergency removals as permitted by law, monitor diversion and pre-petition matters, conduct evidentiary and status hearings, compel witnesses to testify and place them under oath, order services and visitation, determine child-support, custody, sibling visitation, grandparent visitation, and post-termination visitation in matters pending in circuit court ..., facilitate multi-disciplinary team meetings, manage

discovery, oversee improvement periods and case plans, [and] remove individuals from treatment court programs.”

The commissioner may also issue recommendations to the presiding judge regarding “a preliminary, adjudication, disposition, or permanency hearing, contempt, termination of an improvement period, placement, or referral to a treatment court.” Notwithstanding the commissioner’s report, the circuit court “shall retain the sole authority to enter orders on these matters.”

The Administrative Director of the Supreme Court of Appeals is to report annually to the Legislature on “measurable outcomes.”

MISCELLANEOUS

Vetoed.

Senate Bill 705 was passed by the Legislature creating the new criminal offense of “theft by conversion.” Essentially, if property or funds are legitimately received under agreement or other arrangement but are not returned when required, then conversion occurs which is a cause of action in tort. This legislation made it a crime with potential imprisonment of one to ten years. The Governor vetoed the legislation because it “allows for up to five separate counties to have concurrent jurisdiction, regardless of whether any criminal activity occurred within the county’s borders.” This venue provision may have conflated the civil cause of action with a criminal act for as the Governor’s veto message indicates, the provision “violates the constitutional mandate that ‘[t]rials of crimes, and misdemeanors .. shall be’ held ‘in the county where the alleged offence was committed’”, citing W. Va. Const. Art. III §14.

Senate Bill 558 was passed by the Legislature creating the new criminal offense of “aggravated passing or failure to stop for a stopped school bus.” The new offense listed various aggravating circumstances that would remove the offense from the generic offense of “overtaking and passing school bus.” The statute provided for enhancement of penalties for second and third offenses. The language for the second offense was: “A person convicted under this section twice within a five-year period shall be ... confined in a regional jail facility for not less than seven consecutive days.” The Governor’s veto message was that this provision “carries no maximum penalty and is not delineated as a misdemeanor or felony ... [and] because criminal statutes are subject to rigorous scrutiny by the Courts, I cannot sign this bill unless this flaw is addressed.” In context, it appears the intent was to make this a misdemeanor, like the first offense, but extending the maximum jail sentence from six months to one year.

House Bill 4730 was described by the Governor as a “noble attempt to assist youths who have been in foster care for significant portions of their lives as they age out of the program.” The Governor further says that “the concept in the Legislation is a good one. We need to be proactive to help youths who are moving out of the foster care program.” This legislation’s proposed program to achieve these goals was at a cost, initially, of five million dollars and was expected to rise each year with built-in escalators. Accordingly, the Governor vetoed the bill after noting that “I believe the goal can be accomplished through existing initiatives.”

House Bill 4893 wanted to increase the fines for contempt of court. Also, the final version permitted the imposition of alternative sentences including weekend jail programs or work programs. The Governor vetoed the legislation noting that the amended section had been held in disfavor by the Supreme Court of Appeals of West Virginia in *State ex rel. Dilly v. Hall*, 250 W. Va. 155, 169, 902 S.E.2d 487, 501 (2024). The Court found that it was impermissible for the court to summarily impose a serious penalty for “indirect” criminal contempt without a jury trial. The Governor asserted the amendments made by the legislation further exacerbated this constitutional problem.

Observation.

You will note that the most common effective date was June 12, 2026, which is exactly 90 days after the very last day of the session. Enough said.