



WEST VIRGINIA

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. W. Va. Code Ann. § 61-14-2 (2021) – Human Trafficking of an Individual; Aiding and Abetting Human Trafficking; Penalties

i. Summary

A person who knowingly and willfully traffics another person is guilty of a felony. W. Va. Code Ann. § 61-14-2. The terms “human trafficking” or “traffics” mean “knowingly recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining or enticing an individual to engage in debt bondage, forced labor or sexual servitude.” W. Va. Code Ann. § 61-14-1(6).

ii. Sentencing

The sentence for a person convicted of human trafficking an individual depends on the age of the victim. If the victim is an adult, the defendant shall be imprisoned for three to 15 years, fined up to USD 200,000, or both. W. Va. Code Ann. § 61-14-2(a).

If the victim is a minor, the defendant shall be imprisoned for five to 20 years, fined up to USD 300,000, or both. W. Va. Code Ann. § 61-14-2(b).

The court shall order anyone convicted under this article to pay restitution to the victim of the offense. The court shall order restitution even if the victim is unavailable to accept payment. W. Va. Code Ann. § 61-14-7(c).

iii. Statute of Limitations

West Virginia has no statute of limitations for felonies.

b. W. Va. Code Ann. § 61-14-3 (2017) – Use of Forced Labor

i. Summary

Any person who knowingly uses another person in forced labor is guilty of a felony. W. Va. Code Ann. § 61-14-3. “Forced labor” is defined as:

labor or services that are performed or provided by another person and are obtained or maintained through:

- (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.

W. Va. Code Ann. § 61-14-1(5).

“Forced labor” does 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 shall 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 in an otherwise lawful manner and for the purpose of discipline, supervision or teaching. W. Va. Code Ann. § 61-14-1(5).

ii. Sentencing

The sentence for a person convicted of using forced labor depends on the age of the victim. If the victim was an adult, the defendant shall be imprisoned for one to five years, fined up to USD 100,000, or both. W. Va. Code Ann. § 61-14-3(b).

If the defendant used a minor in forced labor, the defendant shall be imprisoned for three to 15 years, fined up to USD 300,000, or both. W. Va. Code Ann. § 61-14-3(b).

The court shall order anyone convicted under this article to pay restitution to the victim of the offense. The court shall order restitution even if the victim is unavailable to accept payment. W. Va. Code Ann. § 61-14-7(c).

iii. Statute of Limitations

West Virginia has no statute of limitations for felonies. W. Va. Code Ann. § 6-11-9.

c. W. Va. Code Ann. § 61-14-4 (2017) – Use of Persons in Debt Bondage

i. Summary

Any person who knowingly uses another person in debt bondage is guilty of a felony. W. Va. Code Ann. § 61-14-4. West Virginia defines “debt bondage” as:

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.

W. Va. Code Ann. § 61-14-1(4).

ii. Sentencing

The sentence for a person convicted of the use of persons in debt bondage depends on the age of the victim. If the defendant used an adult in debt bondage, the sentence ranges from one to five years in prison, a fine of up to USD 100,000, or both. W. Va. Code Ann. § 61-14-4(a). If the defendant used a minor in debt bondage, the sentence ranges from three to 15 years in prison, a fine of up to USD 300,000, or both. W. Va. Code Ann. § 61-14-4(b).

The court shall order anyone convicted under this article to pay restitution to the victim of the offense. The court shall order restitution even if the victim is unavailable to accept payment. W. Va. Code Ann. § 61-14-7(c).

iii. Statute of Limitations

West Virginia has no statute of limitations for felonies. W. Va. Code Ann. § 6-11-9.

d. W. Va. Code Ann. § 61-14-5 (2017) – Sexual Servitude

i. Summary

Any person who knowingly uses coercion to compel an adult to engage in commercial sexual activity is guilty of a felony. W. Va. Code Ann. § 61-14-5(a). “Commercial sexual activity’ means sexual activity for which anything of value is given to, promised to or received by a person.” W. Va. Code Ann. § 61-14-1(3).

Any person who knowingly maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity is also guilty of a felony. W. Va. Code Ann. § 61-14-5(b). It is not a defense that a minor consented to sexual activity. W. Va. Code Ann. § 61-14-5(c). Nor is it a defense that the defendant believed the minor was an adult. W. Va. Code Ann. § 61-14-5(c).

ii. Sentencing

The sentence for a person convicted of sexual servitude depends on the age of the victim. If the victim is an adult, the defendant shall be imprisoned for three to 15 years, fined up to USD 200,000, or both. W. Va. Code Ann. § 61-14-5(a).

If the victim is a minor, the defendant shall be imprisoned for 10 to 20 years, fined up to USD 300,000, or both. W. Va. Code Ann. § 61-14-5.

The court shall order anyone convicted under this article to pay restitution to the victim of the offense. The court shall order restitution even if the victim is unavailable to accept payment. W. Va. Code Ann. § 61-14-7(c).

iii. Statute of Limitations

West Virginia has no statute of limitations for felonies. W. Va. Code Ann. § 6-11-9.

e. W. Va. Code Ann. § 61-14-6 (2017) – Patronizing a Victim of Sexual Servitude

i. Summary

A person who knowingly patronizes another person in commercial sexual activity and who knows that such person is a victim of sexual servitude is guilty of a felony. W. Va. Code Ann. § 61-14-6.

ii. Sentencing

The sentence for a person convicted of patronizing a victim of sexual servitude depends on the age of the victim. If the victim is an adult, the defendant shall be imprisoned for one to five years, fined up to USD 100,000, or both. W. Va. Code Ann. § 61-14-6(a).

If the victim is a minor, and the defendant convicted knows or has reason to know that the minor is a victim of sexual servitude, then the defendant shall be imprisoned for three to 15 years, fined up to USD 300,000, or both. W. Va. Code Ann. § 61-14-6(b).

The court shall order anyone convicted under this article to pay restitution to the victim of the offense. The court shall order restitution even if the victim is unavailable to accept payment. W. Va. Code Ann. § 61-14-7(c).

iii. Statute of Limitations

West Virginia has no statute of limitations for felonies. W. Va. Code Ann. § 6-11-9.

f. W. Va. Code Ann. § 61-14-7(f) (2017) – Forfeiture

Subject to forfeiture is: “(1) All property which is directly or indirectly used or intended for use in any manner to facilitate a violation of [Article 14 – Human Trafficking]; and (2) Any property constituting or derived from gross profits or other proceeds obtained from a violation of [Article 14 – Human Trafficking].” W. Va. Code Ann. § 61-14-7(f)(1).

g. W. Va. Code Ann. § 61-14-7 (2017) – General Provisions and Other Penalties of Human Trafficking

Each adult or minor victim counts as a separate offense under West Virginia law. W. Va. Code Ann. § 61-14-7(a).

“[I]f an individual is convicted of an offense under [Article 14 – Human Trafficking] and the trier of fact makes a finding that the offense involved an aggravating circumstance, the individual shall not be eligible for parole before serving three years in a state correctional facility.” W. Va. Code Ann. § 61-14-7(b)(1). An “‘aggravating circumstance’ occurs when an individual recruited, enticed or obtained the victim of the offense from a shelter or facility that serves runaway youths, children in foster care, the homeless or victims of human trafficking, domestic violence or sexual assault.” W. Va. Code Ann. § 61-14-7(b)(2).

Should a law enforcement officer encounter a child who reasonably appears to be a victim of an offense under Article 14 – Human Trafficking, the officer shall notify the Department of Health and Human Resources. If available, the Department of Health and Human Resources may notify the Domestic Violence Program serving the area where the child is found. W. Va. Code Ann. § 61-14-7(e).

Any person or business entity convicted of a violation of this article shall be debarred from state or local government contracts. W. Va. Code Ann. § 61-14-7(f)(4).

h. W. Va. Code Ann. § 61-14-8 (2021) – Immunity for Minor Victim of Sex Trafficking

Minor victims of sex trafficking receive immunity from prosecution under many state prostitution laws. W. Va. Code Ann. § 61-14-8(a). But this immunity does not apply to a prosecution for offenses listed under W. Va. Code Ann. § 61-8-5(b), which include soliciting, inducing, enticing, or procuring another to commit an act or offense of prostitution, unless the court determines that the minor was coerced into criminal behavior. W. Va. Code Ann. § 61-14-8(b).

A minor who has immunity under this section is presumed to be an abused child and may be eligible for appropriate child welfare services, including specialized trauma-informed services. W. Va. Code Ann. § 61-14-8(c).

2. Online Child Sexual Exploitation and Child Pornography Offenses

W. Va. Code Ann. § 61-3C-14b – Soliciting, etc. a Minor Via Computer; Soliciting a Minor and Traveling to Engage the Minor in Prohibited Sexual Activity

W. Va. Code Ann. § 61-8A-2 – Distribution and Display to Minor of Obscene Matter; Penalties; Defenses

W. Va. Code Ann. § 61-8A-4 – Use of Obscene Matter with Intent to Seduce Minor

W. Va. Code Ann. § 61-8A-5 – Employment or Use of Minor to Produce Obscene Matter or Assist in Doing Sexually Explicit Conduct

W. Va. Code Ann. § 61-8C-2 – Use of Minors in Filming Sexually Explicit Conduct Prohibited

W. Va. Code Ann. § 61-8C-3 – Distribution and Exhibiting of Material Depicting Minors Engaged in Sexually Explicit Conduct Prohibited

W. Va. Code Ann. § 61-8C-3a – Prohibiting Child Erotica

W. Va. Code Ann. § 61-8C-3b – Prohibiting Juveniles from Manufacturing, Possessing and Distributing Nude or Partially Nude Images of Minors; Creating Exemptions; Declaring a Violation to Be an Act of Juvenile Delinquency; and Providing for the Punishment Thereof

W. Va. Code Ann. § 61-8D-5 – Sexual Abuse by a Parent, Guardian, Custodian or Person in a Position of Trust to a Child; Parent, Guardian, Custodian or Person in Position of Trust Allowing Sexual Abuse to Be Inflicted Upon a Child; Displaying of Sex Organs by a Parent, Guardian, or Custodian

W. Va. Code Ann. § 61-8D-6 – Sending, Distributing, Exhibiting, Possessing, Displaying or Transporting Material by a Parent, Guardian or Custodian, Depicting a Child Engaged in Sexually Explicit Conduct

3. W. Va. Code Ann. § 15-12-2 (2018) – Sex Offender Registration Act

Offenses that require registration as a sex offender include W. Va. Code Ann. § 61-14-2 (human trafficking), if for purposes of sexual servitude; W. Va. Code Ann. § 61-14-5 (sexual servitude); and W. Va. Code Ann. § 61-14-6 (patronizing a victim of sexual servitude). W. Va. Code Ann. § 15-12-2(b)(8).

B. Civil Liability Statutes

1. W. Va. Code Ann. § 61-3C-16 (1989) – Civil Relief (West Virginia Computer Crime and Abuse Act)

a. Summary

Any person “whose property or person is injured by reason of a violation” of any provision of Article 3C, including W. Va. Code Ann. § 61-3C-14b (involving use of computer to solicit sexual activity with minor), can bring a civil lawsuit. W. Va. Code Ann. § 61-3C-16(a).

b. Damages and Other Relief

A prevailing plaintiff may receive compensatory and punitive damages, as well as other relief as the court may deem appropriate. W. Va. Code Ann. § 61-3C-16(a).

c. Statute of Limitations

A lawsuit under this provision must be commenced before the earlier of: (1) five years after the last act in the course of conduct violating this article; or (2) two years after the plaintiff discovers or reasonably should have discovered the last act in the course of conduct violating this article. W. Va. Code Ann. § 61-3C-16(d).

C. Additional Statutes Specific to Human Trafficking

1. W. Va. Code Ann. § 15A-2-5 (2019) – Human Trafficking Assistance Notices

Certain businesses and establishments must post notices, which include the National Human Trafficking Resource Center hotline information, to assist victims of human trafficking in obtaining help and services: locations licensed for on-premises consumption of alcoholic beverages; exotic entertainment facilities, which are facilities featuring live nude dancing, nude service personnel, or live nude entertainment; primary airports; passenger rail stations; bus stations; locations where gasoline and diesel fuel are sold; emergency departments within hospitals; urgent care centers; locations at which farm labor contractors and day haulers work, if a physical facility is available at those locations upon or in which notice can be posted; privately operated job recruitment centers; rest areas located along interstate highways; and hotels.

2. W. Va. Code Ann. § 30-29-3 (2021) – Law Enforcement Training on Human Trafficking

The Law Enforcement Professional Standards Subcommittee may establish training and procedures for law enforcement investigations into human trafficking offenses.

3. W. Va. Code Ann. § 21-5-1 *et seq.* (2015) – Wage Payment and Collection

An employee may bring a civil lawsuit to recover unpaid wages. A prevailing employee may also recover costs and reasonable attorney's fees. A noncompliant employer may be subject to additional criminal penalties. W. Va. Code Ann. § 21-5-15.

More information is available at: https://labor.wv.gov/Wage-Hour/Wage_Collection/Employees/Documents/Emp%20Wage%20Comp%20Proc%202016.pdf.

4. W. Va. Code Ann. § 49-1-201 (2018) – Child Welfare

West Virginia's child protection statutes define "abused child" to include a victim of human trafficking or attempted human trafficking.

5. W. Va. Code Ann. § 61-14-9 (2021) – Petition to Vacate and Expunge Conviction or Juvenile Delinquency Adjudication of Sex Trafficking Victim

Subject to certain exceptions, a person convicted of prostitution as a result of being a victim of trafficking may apply by petition to the circuit court to vacate the conviction or adjudication of juvenile delinquency and expunge the record of conviction or adjudication of juvenile delinquency. A court can grant the petition upon a finding that the individual's participation in the offense was a direct result of trafficking.

6. W. Va. Code Ann. § 48-28A-101 *et seq.* (2007) – Address Confidentiality Program

"Upon recommendation of an application assistant, an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the [West Virginia] Secretary of State to have a designated address assigned by the Secretary of State." W. Va. Code Ann. § 48-28A-103(b).

A completed application must contain the following information:

- (1) The application preparation date, the applicant’s signature, and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;
- (2) A designation of the Secretary of State as agent for purposes of service of process and for receipt of certain first-class mail;
- (3) The mailing address where the applicant may be contacted by the Secretary of State and the telephone number or numbers where the applicant may be contacted by the Secretary of State; and
- (4) A residential or mailing address or both types of addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant’s safety or increase the risk of violence to the applicant or members of the applicant’s household.

W. Va. Code Ann. § 48-28A-103(c).

The West Virginia Secretary of State has identified victims of human trafficking as eligible for the address confidentiality program. More information is available at: <https://sos.wv.gov/admin-law/Pages/ACP.aspx>.

D. Significant Cases

No significant cases regarding West Virginia’s human trafficking statutes were found.

E. Academic Research/Papers

Melissa L. Breger, *Healing Sex-Trafficked Children: A Domestic Family Law Approach to an International Epidemic*, 118 W.V. L. REV. 1131 (2016).

F. Resources

National Human Trafficking Hotline (West Virginia):

<https://humantraffickinghotline.org/state/west-virginia>

Shared Hope International, West Virginia Report Card (2019):

https://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_WV.pdf

Shared Hope International, West Virginia Analysis and Recommendations (2019):

https://sharedhope.org/PICframe9/analysis/PIC_AR_2019_WV.pdf

U.S. Department of Health & Human Services, *West Virginia: Efforts to Combat Human Trafficking* (2017):

https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/west_virginia_efforts_to_combat_human_trafficking.pdf

West Virginia Center for Children’s Justice Human Trafficking Task Force:

<http://www.handlewithcarewv.org/human-trafficking-task-force.php>

West Virginia Division of Homeland Security & Emergency Management, Human Trafficking Awareness:

<https://dhsem.wv.gov/Homeland%20Security/Pages/Human-Trafficking-Awareness.aspx>

West Virginia Human Trafficking Task Force:

<https://stophumantraffickingwv.org/>

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