

OPPOSITION Response to HB 4651
Increasing penalties sexual offenses
January 28, 2024

House Judiciary Committee:

[West Virginians for Rational Sexual Offence Laws \(WVRSOL\)](#) is a West Virginia non-profit association and an affiliate of the [National Association for Rational Sexual Offence Laws \(NARSOL\)](#), which advocates for society's segment that is adversely affected by the sex offender registry. We try to help families impacted by the registry, seek ways to maintain and improve public safety, recommend prudent use of state funding in this area, and work to ensure that proposed legislation is constitutional.

WVRSOL **opposes** HB 4651 because (a) there is no empirical evidence that longer sentences are preventative and (b) because of its exorbitant financial and apparent expounding exacerbation of the Division of Corrections and Rehabilitation prison population and overcrowding.

HB 4651 – proposed changes

1. The updates proposed to section §61-8B-18 to increase the median sentence length by eight years significantly increase prison sentences for those who will serve sentences for §61-8B-3, §61-8B-4, §61-8B-5, §61-8B-7, §61-8B-8, §61-8B-9, §61-8B-9b, §61-8B-10, and §61-8B-12 and new section §61-8B-4a.

Opposed to: the lack of empirical evidence that longer sentences are preventative

1. In the 1970s, the United States began an unsupportive research experiment in mass incarceration based solely on an emotional hypothesis that harsh punishment reduces crime. "Skeptics argued that imprisonment may have a criminogenic effect. The skeptics were right. Previous narrative reviews and meta-analyses concluded that the overall effect of imprisonment is null." (Petrich et al., 2021)
2. Hawkins, an eminent and respected scholar, argues that "'rational' policy and practice should be informed by research" and never on an emotional hypothesis. Over the last 4+ decades, "evidence-based corrections" has certainly evolved. Today,

Substantial scientific evidence, much of it based on evaluation research, provides direction on what does and does not work to change the behavior of justice-involved individuals (Lipsey and Cullen 2007; Bonta and Andrews 2017; more generally, see Cullen and Jonson 2017). This literature is clear in showing the limits of punishment-oriented interventions. Among this category of punitive sanctions, the data reveal that custodial placements, including in prison settings, are not effective in reducing future reoffending. (Petrich et al., 2021)

Opposed to: exacerbation of the Division of Corrections and Rehabilitation prison population costs and current overcrowding

1. The West Virginia prison population was 5,800, according to the Prison Policy Initiatives' *West Virginia profile*. (*West Virginia Profile*, n.d.)
 2. "Average Annual Cost Per Inmate for FY 2021: \$38,788," according to the FY 2022 Annual Report of the *WV Division of Corrections and Rehabilitation*. (Marshall, 2022)
 3. Assuming HB 4875 is passed, ~29.62% of the FY 2021 inmate population of 5,800 (Marshall, 2022) would lose all "good time" and be required to serve their entire determinate sentences.
 4. Assuming HB 4651 is passed, the average sentence for applicable sexual offenses would increase by at least six years determinate and at most eleven years determinate, so ~8 years median increase.
 5. "Since 2000, the prison custody population has increased 82%," or 4.56% per year (2000-2018), according to the Vera Institute of Justice's *Incarceration Trends in West Virginia* fact sheet. (*Incarceration Trends in West Virginia*, 2019)
- If we take points 1-4 above, we can extrapolate as noted below:
- 9,968 is the increase in the prison population in 10 years (2034) at a rate of 4.56% per year.

- 2,840 or 30% of the 2034 total will be for HB 4875 qualifying offenses and must do 50% more time.
 - 2,840 or 30% of the 2034 total will meet the HB 4651 8-year median sentence increase.
 - 2,840 is the increase over the 9,968 total due to the HB 4875 50% added time increase and HB 4651 median sentence increase.
 - 12,808 the net prison population total in 2034, a 28% increase over current projections.
 - \$224,970,400 today's annual prison population cost (\$38,788 x 5,800)
 - \$367,244,784 projected 2034 annual prison population cost (\$38,788 x 9,968) 63% increase
 - \$496,796,704 projected 2034 annual prison population cost if HB 4875 and HB 4651 pass (\$38,788 x 12,808), a 121% increase or 35% more than currently projected or \$271,826,304.
 - **\$271.8M HB 44875 & HB 4651 prison population price tag** based on today's dollars projected in 2034
- Suppose we add the \$161.2M to the estimated \$300M needed to increase pay and repair decaying facilities in the understaffed and overcrowded WV prisons (Culvyhouse, 2023). In that case, one can easily see that an added \$271.8M for zero rehabilitation value, but instead, added punishment will never and should never be in the legislative budget or the taxpayer's pocket.

WVRSOL supports legislation that actually works to reduce abuse and sexual offenses, help children and families, and improve public safety. Unfortunately, HB 4651 does none of these things. Therefore, we **oppose** and respectfully urge the House, its members, and the House Judiciary Committee to **reject HB 4651**.

Sincerely,

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