

**OPPOSITION Response to HB 4742**  
**Relating to dangerous crimes against children**  
**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 4742 because (a) sentences of life without the possibility of parole (LWOP) are (1) antithetical to personal transformation, the supposed primary goal of our corrections systems; (2) violates fundamental principles of human dignity (3) unnecessarily burdens prisons with the high cost of housing, feeding, and providing medical care; (b) there is no empirical evidence that longer sentences are preventative; and (c) because of its exorbitant financial and apparent expounding exacerbation of the Division of Corrections and Rehabilitation prison population and overcrowding.

**HB 4742 – proposed changes**

1. The updates proposed to section §61-8B-9a to increase prison sentences for sexual offenses against children and specifically increasing to without the possibility of parole (LWOP) for repeat violations of §61-8B-3, §61-8B-4, §61-8B-5, §61-8B-7, §61-8B-8 or §61-8B-9 is unconscionable.

**Opposed to: sentences of life without the possibility of parole (LWOP)**

1. Sentences of life without the possibility of parole (LWOP) are (1) antithetical to personal transformation, the supposed primary goal of our corrections systems; (2) violate fundamental principles of human dignity (3) unnecessarily burden prisons with the high cost of housing, feeding, and providing medical care.
  - "Life without parole is a common sentence in the United States, particularly as an alternative to the death penalty as states abolish or limit its use." (Flatow, 2013) However, in 2013, the "top human rights court in Europe ruled that a prison sentence of life without parole is inhuman and degrading treatment, and violates the European Convention of Human Rights." (Flatow, 2013)
  - Recommendations from The Sentencing Project in 2021 were to abolish life without parole in the United States.

Sentences of life without the possibility of parole (LWOP) are virtually unheard of in the rest of the world. They are considered antithetical to personal transformation, the primary goal of many other corrections systems. Even more, they violate fundamental principles of human dignity. Instead of serving the interests of justice, LWOP unnecessarily burdens systems with the heavy cost of housing, feeding, and providing medical care for the more than 55,000 people. This disproportionately elderly population must live in institutions not well designed to care for them. The elimination of LWOP will recalibrate all sentences underneath it. Public perceptions of incarceration minimize the negative impact of a 5- or 10-year sentence on an individual when compared to the extremes of a life sentence. Creation of a more fair and just system depends on ending all extreme penalties. (Ashley Nellis, 2021)

- Increases in life sentences without parole will have a direct corresponding increase in 8<sup>th</sup> Amendment challenges, which this bill if passed, will be ripe for.

In 2011, the US Supreme Court mandated that state penal systems respect the dignity of incarcerated people by eliminating overcrowded and inadequate prison conditions. The foreseeable ongoing increase in elderly prisoners portends similar legal challenges, with dignity claims concerning end-of-life care in prison moving to the fore of Eighth Amendment litigation. (Seeds, 2021)

**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 will increase by ~30% over current projection by 2034 if HB 4875 is passed, which raises the annual cost over the same period by ~38% over current projections or \$161,155,680 (Kaso, 2024)
  - **161.2M**
2. The West Virginia prison population will increase by an additional ~30% over current projection by 2034 if HB 4651 is passed, which raises the annual cost over the same period cumulatively by ~121% over current projections or \$271,826,304 (Kaso, 2024a)
  - **\$271.8M**
3. On top of this, an additional significant cost should HB 4742 pass, and one can see how quickly the 2024 legislative session could expand the WV prison cost by \$300M+ over the next ten years.
  - Suppose we add the projected \$300M+ 2024 expanded cost to the estimated \$300M needed to increase pay and repair decaying facilities in the understaffed and overcrowded WV prisons (Culvyhouse, 2023). We see the net increase in cost rising to ~\$600M over the next ten years.
    - **~\$600M**

WVRSOL supports legislation that actually works to reduce abuse and sexual offenses, help children and families, and improve public safety. Unfortunately, HB 4742 does none of these things. Therefore, we **oppose** and respectfully urge the House, its members, and the House Judiciary Committee to **reject HB 4742**.

Sincerely,

*Philip W. Kaso*

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