

OPPOSITION Response to HB 4875

Eliminate the use of good time credit for certain sexual offenses

January 23, 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 joins the ACLU of WV in **opposition** to HB 4875 because of its exorbitant financial and human cost, its apparent expounding exacerbation of the Division of Corrections and Rehabilitation prison population, and overcrowding.

HB 4875 – proposed changes

1. The updates proposed to section §15A-4-17 significantly expand the exclusion of "good time" from those serving a lifetime sentence to those serving sentences for (1) §61-3C-14b, §61-8-32, §61-8A-2, §61-8A-4, §61-8A-5, §61-8B-3, §61-8B-4, §61-8B-5, §61-8B-7, §61-8B-8, §61-8B-9, §61-8B-10, §61-8B-11, §61-8C-2, §61-8C-3, §61-8C-3a, §61-8D-3a, §61-8D-5, §61-8D-6, §61-14-2, §61-14-5, §61-14-6 all relating to sexual offenses.

Moreover, the updates proposed to section §15A-4-17 include a clause that removes good time for those already placed in the custody of the Commissioner of the Division of Corrections and Rehabilitation after October 21, 2023, which would be unconstitutional.

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. ~29.62% of the FY 2021 inmate population of 5,800 would be HB 4875 qualifying offenses based on the Adult Prison Statistics in the *FY 2022 Annual Report WV Division of Corrections and Rehabilitation*. (Marshall, 2022)
4. "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.
- 1,420 is the increase over the 9,968 total due to the 50% added time increase.
- 10,888 the net prison population total in 2034, a 13% 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
- \$421,625,560 projected 2034 annual prison population cost if HB 4875 passes (\$38,788 x 10,888), an 87% increase or 38% more than currently projected or \$161,155,680.24

- **\$161.2M HB 4875 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

WVRSOL does not in any way condone sexual activity between adults and children, nor does it condone any sexual activity that would break the laws of any state. We do not advocate lowering the age of consent, and we have no affiliation with any group that does condone such activities.

facilities in the understaffed and overcrowded WV prisons (Culvyhouse, 2023). In that case, one can easily see that an added \$161M for zero rehabilitation value, but instead, added punishment will never and should never be in the legislative budget or the taxpayer's pocket.

Opposed to: applying a good time exception to a specifically targeted class of citizens, in this case, those with sexual offenses

1. It is restrictive and inclusive to those with sexual offenses only while allowing all other non-life sentence offenses to retain good time application. This legislation is targeted ostracization behavior for no relevant or apparent reason.

Opposed to: The ex post facto clause prevents removing good time for those already placed in the custody of the Commissioner of the Division of Corrections and Rehabilitation after October 21, 2023

1. While good time is by no means a constitutional right, applying a clause that removes good time from any date other than from crimes committed after the date of passage should HB 4875 be signed into law is unconstitutional and will result in litigation challenges and expenses citing the constitutions guarantee that no ex post facto laws will be enacted.

WVRSOL supports legislation that actually works to reduce abuse and sexual offenses, help children and families, and improve public safety. Unfortunately, HB 4875 does none of these things. Therefore, we **oppose** and respectfully urge the House, its members, and the House Judiciary Committee to **reject HB 4875**.

Sincerely,

Philip W. Kaso

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Works Cited

- Culvyhouse, H. (2023, August 20). *West Virginia lawmakers pour almost \$100 million into improving jails. It's not enough.* Mountain State Spotlight. <http://mountainstatespotlight.org/2023/08/20/jails-prisons-funding-dire-need-lawmakers/>
- Incarceration Trends in West Virginia.* (2019). Vera Institute of Justice. <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-west-virginia.pdf>
- Marshall, W. K. (2022). *FY 2022 Annual Report WV Division of Corrections and Rehabilitation* (p. 47) [Annual]. https://dcr.wv.gov/resources/Documents/annual_reports/FY22%20ANNUAL%20REPORT%20WV%20DCR.pdf
- Sawyer, W. (2022, August 25). *Since you asked: How many people are released from each state's prisons and jails every year?* Prison Policy Initiative. <https://www.prisonpolicy.org/blog/2022/08/25/releasesbystate/>
- The Cost of Recidivism: The high price states pay to incarcerate people for supervision violations.* (2023). The Council of State Governments Justice Center. <https://csjjusticecenter.org/publications/the-cost-of-recidivism/>
- West Virginia profile.* (n.d.). Prison Policy Initiative. Retrieved January 20, 2024, from <https://www.prisonpolicy.org/profiles/WV.html>