

West Virginia

WOMEN IN PRISON: 241 (1999) ⁱ

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§61-8B-10 – *Imposition of sexual intercourse or sexual intrusion on inmate; penalty.*¹

2000 W.V. SB 157 – *passed 3/10/00-amending §25-1-22* After intense lobbying, the West Virginia law is in the sexual offenses chapter of the criminal code.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	No	The law is limited to sexual intercourse or intrusion, and does not include contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	There is no provision in the law allowing a defense of consent.
Does the statute cover all custodians and staff in contact with inmates?	No	The law does not cover persons who are not employed by or contractual employees of correctional facilities.
Does the statute cover all places where an inmate might be abused?	Yes	The law is not concerned with where the abuse took place.
Is the penalty a felony?	Yes	Violation is five years imprisonment and/or a \$5,000 fine.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ⁱⁱ	Not known. West Virginia has no centralized data collection mechanism to provide the information. ⁱⁱⁱ
Incidents reported in select media since 10/98	<ul style="list-style-type: none"> - Marion County Jail: Former inmate Andrea Cunningham settles lawsuit claiming corrections official, Andrew Noshagya, sexually assaulted her in exchange for early release. <i>Charleston Gazette</i>, 10/19/00 - Anthony Center: 18-year-old inmate Kimberly Faye Porter charges she became pregnant after officer raped her. Being investigated internally. <i>Charleston Gazette</i>, 08/22/00 - Wayne County Jail: Two officers resigned in the wake of allegations that five female inmates were sexually abused. <i>USA Today</i>, 04/06/00 - Grant County Sheriffs Dept.: Former sheriff found guilty and sentenced to seven years for forcing female inmates to engage in sex acts with law enforcement officials. <i>APBnews.com</i>, 12/17/99

Custodial Sexual Misconduct –Policies, Procedures and Practices of Guarding Specific to Women

The following data is based on surveys performed by the National Institute of Corrections in 1996 and 2000, except in cases when further details have been available to AI from alternative sources.

Is the current Department of Corrections policy on custodial sexual misconduct language explicit?	Yes	Policy includes direct and specific language about the sexual nature of the behaviors prohibited. ^{iv}
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¹ The text of West Virginia’s statute is reprinted at the end of this section.

Allow cross-gender pat-down searches?	Yes	Searches are predominantly same-sex. Cross-sex done only in emergency – “emergency” not defined. This is a practice, not a policy. ^v
Restrictions on the duties of male guards?		Not known.
Was there staff training on sexual misconduct in 1996?	Yes	West Virginia Department of Corrections provides training for all staff with inmate contact. The staff receives four annual in-service hours of training. ^{vi}
Has staff training been developed 1996-2000?	No	No new initiatives. ^{vii}
Were there special procedures for investigating allegations of sexual misconduct in 1996?	No	West Virginia is not specifically mentioned in the National Institute of Corrections report. However, it is noted that most DOCs use standard investigatory procedures with no special considerations for the nature of the complaint. ^{viii}
Have new investigation procedures been introduced 1996-2000?	No	No new initiatives. ^{ix}
Were inmates informed of agency policies about sexual misconduct in 1996?	Yes	Policies are covered in a specific training presentation; in the standard inmate orientation; and in an inmate handbook. ^x
Have procedures on informing inmates about sexual misconduct been revised 1996-2000?	No	No new initiatives. ^{xi}

Custodial Sexual Misconduct –Legislative Proposals 2000-01

None

Parenting and Pregnancy in Custody

Pregnancy - Relevant Statutes/Administrative Rules

Legislation banning shackling in the third trimester or during labor	No	West Virginia has no legislation limiting the use of shackling on pregnant inmates.
Administrative rules concerning pregnancy and delivery	Yes	The state has adopted statutory provisions relating to pregnant inmates, but these only contain provisions for determining custody of the baby. ^{xii}

Pregnancy and Parenting - Policies, Procedures and Practices

Use of restraints in third trimester		Not known. We have received no response to our inquiries from the West Virginia DOC.
Restraints during transport		See above.
Restraints during labor		See above.
Officer in delivery room		See above.
Parenting programs specific for women	Yes	West Virginia DOC provides a parenting program specifically for women. ^{xiii}
Special visitation rights for women	Yes	West Virginia DOC has special visitation rights for women with children. ^{xiv}
State Mother and Child Residency Program	No	West Virginia DOC has no residential program for inmate mothers and their infants/children. ^{xv}

Amnesty International Actions

21 July 2000. Regional Action Network

Violations in West Virginia Jails: Amnesty International has received complaints of ill treatment experienced by prisoners at the Wayne County Jail in West Virginia. A class action civil suit alleges violations of a violent, sexual and in some cases racist or homophobic nature. In one incident, women were forced to parade topless through the male cellblock.^{xvi}

Contact information

WEST VIRGINIA DEPARTMENT OF CORRECTIONS

Commissioner Paul Kirby 112 California Avenue Bldg. 4, Room 300 Charleston, WV 25305 Phone: (304) 558-2036; Fax: (304) 558-5934	Home page: http://www.state.wv.us/wvdoc/
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WEST VIRGINIA DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

Pruntytown Correctional Center <i>Female inmates: 79^{xvii}</i> Capacity: 78 Guard to inmate ratio: 1:3 Warden: Jim Liller P.O. Box 159 Grafton, West Virginia 26354 Phone: (304) 265-6111 Fax: (304) 265-6120 Homepage: http://www.state.wv.us/wvdoc/pcc.htm Co-ed facility. Holds women in all security classifications. Total male inmate capacity is 292, mostly minimum security.	Charleston Work Release Center <i>Female inmates: 4</i> Administrator: Donald M. Ervin 607 Brooks Street Charleston WV 25301-1319 Phone: (304) 558-2763 Fax: (304) 558-1537 Home page: http://www.state.wv.us/wvdoc/cwrc.htm	Huntington Work Release Center <i>Female inmates: 11</i> Administrator: James T. Parker 1236 Fifth Avenue Huntington, W Virginia 25701 Phone: (304) 529-6885 Fax: (304) 529-0205 Home page: http://www.state.wv.us/wvdoc/hwrc.htm
Beckley Correctional Center <i>Female inmates: 1</i> Administrator: Alvin Ross 111 South Eisenhower Drive Beckley, WV 25801 Phone: (304) 256-6780 Home page: http://www.state.wv.us/wvdoc/bcc.htm	Anthony Correctional Center <i>Female inmates: 6</i> Warden: Scott W. Patterson Box N-1, HC 70 White Sulphur Springs, WV 24986 Home page: http://www.state.wv.us/wvdoc/acc.htm Youthful offenders between 18-21.	

WEST VIRGINIA EXECUTIVE

Governor Bob Wise Office of the Governor State Capitol Complex Charleston, WV 25305 Phone: (304) 558-2000 or 1(888) 438-2731 Fax: (304) 342-7025 e-mail: governor@governor.state.wv.us	Homepage: http://www.wi-doc.com/index_adult.htm Contact page: http://www.state.wv.us/governor/contact2.htm Elected: 1996
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Attorney General Darrell V. McGraw, Jr. (D) 1900 Kanawha Blvd, Room 26E Charleston, WV 25305-9924 Phone: (304) 558-2021 Main Office	Home page: Http://www.state.wv.us/wvag/
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WEST VIRGINIA LEGISLATIVE INFORMATION

Legislative Session: The legislation convenes for 60 calendar days each year commencing on the second Wednesday in January. The year a new governor is inaugurated, the session begins on the second Wednesday in February. Senate: 34 members, 2-year term. Half are elected at alternating years. House of Delegates: 100 members, 2-year term. Election of entire body every 2 nd year.	Legislature home page: http://www.legis.state.wv.us/ Bill search: http://129.71.161.247/Bill_Status/bstat_intro.html Bill information phone number: (304) 347-4830
Senate State Capitol, Bldg. 1 1900 Kanawha Blvd. East Charleston, WV 25305	Senate Home Page: http://www.legis.state.wv.us/ Email Senators: cglagola@mail.wvnet.edu
House of Delegates State Capitol, Bldg. 1 1900 Kanawha Blvd. East Charleston, WV 25305	Home Page: http://www.legis.state.wv.us/ Email Delegates: jemswlr@mail.wvnet.edu

WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

West Virginia-CURE Julia Clements 149 Snow Hill Charleston, WV 25311 Phone: (304) 925-3626 Jcleme4401@aol.com
Alderson Hospitality House P.O. Box 579 Alderson, WV 24910 Phone: (304) 445-2980 <i>Provides support to families visiting women incarcerated in Alderson Federal Prison Camp. Publishes newsletter, The Trumpet.</i>
ACLU of West Virginia P.O. Box 3952 Charleston, WV 25339 Phone: (304) 345-9246
Dan Hedges State Legal Services Office, Inc. Mountain State Justice 922 Quarrier Street #525 Charleston, WV 25301 Phone: (304) 344-3144
WV Women's Commission Donna Hammond Building 6, Room 637 Capitol Complex Charleston, WV Phone: (304) 558-0070; Fax: (304) 558-5167

^{vi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

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- ^{vii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^{viii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996
- ^{ix} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^x US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996
- ^{xi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000
- ^{xii} Women in Prison: Their Family Relationships and Their Depiction in the Media, Caneila Dyer, University of South Florida
- ^{xiii} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998
- ^{xiv} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998
- ^{xv} General Accounting Office, "Managing Female Inmate Populations," GAO/GGD-00-22, 2000
- ^{xvi} AI Index: AMR 51/109/00
- ^{xvii} December 1999 numbers, West Virginia Division Of Corrections, Yearly Population Statistics 1999, Last Updated on 02/08/2000, By WVDOC, <http://www.state.wv.us/wvdoc/1999pop.htm>