



Patrick Morrissey
Office of the Governor

April 1, 2026

VIA HAND DELIVERY

The Honorable Kris Warner
Secretary of State of West Virginia
State Capitol Complex
Building 1, Suite 157-K
Charleston, West Virginia 25305

Re: Enrolled Senate Bill 705

Dear Secretary Warner:

Pursuant to Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return the Enrolled Senate Bill 705 with the following objections:

This bill, which creates the new offense of theft by conversion, violates the constitutional mandate that “[t]rials of crimes, and of misdemeanors . . . shall be” held “in the county where the alleged offence was committed.” W. Va. Const. Art. III § 14. *See, State v. Dennis*, 216 W. Va. 331, 343, 607 S.E.2d 437, 449 (2004) (“The jurisdictional as well as venue implications of this constitutional provision were recognized early in the jurisprudence of this state.”). Here, the bill sets forth that “[v]enue for prosecution . . . may be in the county in which the defendant resides, the county in which the victim resides, in the county where the property is located, in the county where the agreement was executed, or in the county where the obligation arose.” 87th Reg. Leg. Sess. S.B. 710, p. 2, l. 24-27 (Mar. 14, 2026).

While an “accused may be tried in any one county in which any substantial element of the offense occurred,” W. Va. Code § 61-11-12, and it is conceivable that venue can be established as a “continuing” offense, the bill defines venue without any requirement that the defendant be tried in a county that was the “place where the crime was initiated, continued or completed.” *Dennis*, 216 W. Va. at 345, 607 S.E.2d at 451 (internal citations omitted). As a result, the bill allows for up to five separate counties to have concurrent jurisdiction, regardless of whether any criminal activity occurred within the county’s borders. This not only allows for the possibility of forum shopping in a criminal prosecution, but it ignores that venue is an element of the offense which

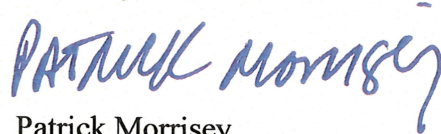
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must be proven by a preponderance of the evidence. Syl. pt. 5, *State v. Burton*, 163 W. Va. 40, 254 S.E.2d 129 (1979).

Venue is not a creation of statute, but is a constitutional prerequisite to trying a criminal matter. Well-meaning as it may be, this bill disregards this foundational protection immortalized in our constitution. As a result of these issues, I hereby disapprove and return the Enrolled Senate Bill 705.

Sincerely,



Patrick Morrissey
Governor

cc: The Honorable Randy Smith,
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates